


IN THE COURT OF COMMON PLEAS OF
LUCAS COUNTY, OHIO

EXHIBIT 17

STATE OF OHIO,)
)
PLAINTIFF,) CASE NO. CR06-3339
)
v.)
) JUDGE BARBER
ROBERT WILSON)
) 
)
DEFENDANT.)

- - -
BE IT REMEMBERED, that in the trial of
the aforementioned cause on September 5, 2008,
before the Honorable James E. Barber, in the
Lucas County Court of Common Pleas, the following
proceedings were held, to-wit:

APPEARANCES:

On behalf of the Plaintiff:
Assistant Lucas County Prosecutor,
Michael Loisel, Esquire

- - -
On behalf of the Defendant, Robert Wilson:
Ronnie L. Wingate, Esquire
Neil S. McElroy, Esquire

- - -
Stacey L. McDevitt, RPR, Official Court Reporter
Lucas County Common Pleas Courthouse,
700 Adams Street, Toledo, Ohio 43624
(419) 213-4477
- - -

I N D E X

COURT'S EXHIBITS

1, Question
2, Shredded Question
3, Handwritten Instruction
4, Jury Instructions

FIRST CLOSING ARGUMENT BY MR. LOISEL.....22
CLOSING ARGUMENT BY MR. WINGATE.....54
SECOND CLOSING ARGUMENT BY MR. LOISEL.....77
JURY CHARGE.....89
VERDICT.....108

1 SEPTEMBER 5, 2008

2 COURTROOM #3

3 9:21 A.M.

4 (WHEREUPON THE FOLLOWING DISCUSSION WAS
5 HELD OUTSIDE THE PRESENCE OF THE JURY.)

6 THE COURT: Let's go on the record.

7 MR. LOISEL: Do you waive your client's
8 presence for this?

9 MR. WINGATE: Yes.

10 THE COURT: We're on the record. The
11 Defendant is not present. His presence is waived
12 by the attorneys. State is present going over
13 proposed instructions. There has been a draft
14 proposal made that all of the attorneys have
15 copies of and we're considering, and I understand
16 that you have a motion you would like to make
17 with respect to the proposed eyewitness testimony
18 appearing on Page 6; is that correct, Mr. Loisel?

19 MR. LOISEL: Yes, Judge. We had
20 discussed this yesterday and the Court indicated
21 that it was going to include this and at that
22 time the State agreed after having a chance to
23 look at it in conjunction with the rest of the

1 jury instructions, this is the typical
2 instruction with respect to eyewitness testimony
3 or identifying witnesses testimony and their
4 ability to recollect, et cetera, et cetera. I
5 mean, there's six factors. I think I'm bringing
6 it to the Court's attention because I think it
7 may be confusing to the jurors. There really is
8 only one witness that could be considered an
9 identifying witness. I think Defense Counsel
10 will probably argue that she probably didn't
11 identify anything, so I just wanted to point out
12 to the Court that I think it may be confusing and
13 therefore would ask that it be removed and I
14 don't believe there's an objection from
15 Defense Counsel at this time.

16 MR. WINGATE: No, there isn't.

17 THE COURT: All right. You would
18 propose then striking the fourth line beginning
19 "with some things" and all the way through six;
20 is that correct?

21 MR. LOISEL: Yes, Judge.

22 MR. WINGATE: Yes.

23 MR. MCELROY: And I believe underneath

1 that.

2 THE COURT: And -- right. All the way
3 through "not guilty."

4 MR. LOISEL: Yes, through Page 6.

5 THE COURT: All right.

6 MR. LOISEL: And --

7 THE COURT: We'll strike all of that.

8 MR. LOISEL: There was a minor addition
9 with respect to the handwritten instruction that
10 you made and there's no objection to that being
11 included on Page 5 by the Defense -- well, by the
12 State. I don't want to speak for the Defense.

13 THE COURT: All right. Everything
14 else all right? Oh, I was going to make that
15 minor change on Page 5, correct. "Phone call
16 made by Brenda Navarre" add "to Detective Seymour
17 wherein" add "he testified she appeared to be
18 under stress. Could not be considered for the
19 truth of that matter." I'll make that addition.

20 MR. LOISEL: No objection, Judge.

21 MR. WINGATE: No objection.

22 THE COURT: All right. Okay. We're
23 ready for oral argument?

1 MR. WINGATE: No, we're not, Your Honor.
2 I was aware of the fact that there was some
3 questions brought in. I would at least like to
4 see the questions.

5 THE COURT: They got ripped up.
6 Allison, do you have those questions that were
7 brought in?

8 MS. FINN: Oh, I don't. I can get a
9 copy of.

10 THE COURT: You ripped them up?

11 MS. FINN: I ripped them up into
12 shreds. I literally shredded them. I shredded
13 them into a thousand pieces. Do you want me to
14 get her -- she has an original, I believe.

15 MR. WINGATE: She still has them?

16 MS. FINN: This is the copy. I told
17 her I wasn't giving her the copy back. Do you
18 want --

19 THE COURT: Let's go on the record
20 here first. I should indicate that the Bailiff
21 was given a document from juror number --

22 MS. FINN: 12.

23 THE COURT: 12. Wherein she indicated

1 she had written up a number of questions that she
2 wanted to be from Ms. Adele Karwacki. She wanted
3 the Court to answer these questions and I believe
4 that would be during open session. I instructed
5 the Bailiff to advise her that she misunderstood
6 any notes that was referenced in the initial
7 instructions to the jury were to be notes that
8 may be generated during the course of their
9 deliberations and that those questions would be
10 reduced to writing and passed to the Bailiff and
11 answered by the Court and Counsel. And I
12 instructed the Bailiff to advise Ms. Karwacki of
13 that understanding. And do I understand, the
14 Bailiff being Ms. French, did you have further
15 conversation with her?

16 MS. FINN: Yes.

17 THE COURT: What was the nature of
18 that conversation?

19 MS. FINN: I explained exactly what
20 you told me, that she could not ask. She had to
21 request the questions in writing at a specific
22 time. When they're deliberating, they have to
23 knock on the door and the bailiff will have to

1 come get them, that they can't share those with
2 anyone in the jury room while she's sitting there
3 now and I was going to destroy that copy. I
4 believe she may have a copy with her.

5 THE COURT: And then you shredded this
6 document?

7 MS. FINN: Yes.

8 THE COURT: That brings you up.

9 MR. WINGATE: All right. That brings me
10 up. But this is the question and concern that I
11 have: I don't know if it was yesterday or the
12 day before yesterday we had a question from
13 Mr. Montague. I believe he's Juror Number 2 --

14 MS. JOHNSON: Yes.

15 MR. WINGATE: --- in the jury box and
16 the question he phrased, and the way it was
17 phrased was he was aware that the wife cannot
18 testify against her husband and that he wanted to
19 know why the Prosecutor did not ask the
20 son-in-law -- the stepson about what was in the
21 bag, their appearance when they arrived at his
22 house. The concern that is raised is that he has
23 now introduced into this matter a principal of

1 law that is not going to be instructed upon by
2 the Court, whether he is correct as to the
3 assessment of spousal privilege or whether he's
4 wrong about it. The fact of the matter is he's
5 now inquiring about a principle that he will not
6 be instructed upon. And in all likelihood, the
7 question that is raised in my mind is, one,
8 whether or not he had, before pending the
9 question and submitting it to the Court, had
10 discussed this matter with other jurors and
11 somehow tainted or either caused a taint to be
12 placed in that jury room relative to the other
13 jurors, and I think that at this juncture. I
14 would ask that he be removed, one; or, two, at
15 least an inquiry be made of him as to whether or
16 not he has discussed his question with other
17 members of this panel; and at minimum, three,
18 that some type of instruction be provided
19 indicating that the law as it applies to this
20 case will come from the Court and only the Court,
21 and you're not to use your own interpretation of
22 other principles of law that you may be aware of
23 as it relates to a verdict that's going to be

1 rendered in this case.

2 That's a concern that I have. I've given
3 it some thought when I initially read the letter
4 but didn't vocalize it, but after thinking about
5 it, I think that with this juror pending that
6 kind of question, at minimum the Court should
7 A -- well, the Court should get rid of him. We
8 do have an alternate, but at the very least I
9 would also have the Court inquire whether or not
10 this question that he submitted was discussed
11 with other members of the panel because the issue
12 of spousal privilege will never come up as an
13 instruction in this case.

14 MR. LOISEL: Judge, I don't think that
15 there's any reason to, A, dismiss him; or B, voir
16 dire him; or C add additional instructions. This
17 case is fraught with issues with respect to the
18 spousal privilege. Obviously the jurors could
19 sense when Mrs. Wilson was testifying that there
20 was something going on. We can't control what
21 the jurors think. If they have some outside
22 knowledge of the law, your instructions tell them
23 that they have to deal with the evidence and the

1 definitions in the law that you give them. What
2 else can you tell them? Just because he wrote a
3 question and presented it earlier with that
4 mindset that he -- I don't remember the exact
5 wording of it, I think Mr. Wingate's rendition
6 was relatively close. Does that justification
7 dismiss him just because it is crossing his mind?
8 I don't believe it rises to that level. So, I
9 would ask that you deny that request to have him
10 stricken and I think we also need to address
11 Ms. Karwacki with respect to the issue of her
12 note-taking.

13 THE COURT: That first note from
14 Juror 2 has been marked as Court's Exhibit Number
15 1. These shredded notes from --

16 MR. MCELROY: Number 12, Ms. Karwacki.

17 THE COURT: I'm going to designate
18 this as Court's Exhibit 2. Give me a second and
19 I'll frame a little instruction to the jury where
20 I will emphasize they are to consider the law as
21 is given to them by the Court in arriving at
22 their decision. I also may put on the record in
23 their presence that we did receive one inquiry

1 that I'm going to assume was not shared with
2 other parties and that that's not to be -- they
3 are to consider only the law as given to them by
4 the Court. Let me -- give me a minute and I'll
5 draw up an instruction and give you a chance to
6 look at it, but I'm not going to dismiss this
7 juror.

8 MR. WINGATE: Note our objection for the
9 record.

10 THE COURT: Sure.

11 MR. WINGATE: Because I don't think
12 assuming that he did not discuss it with other
13 members of the panel is at this juncture
14 appropriate, inasmuch as the case is now on the
15 verge of being presented to the jurors at the
16 close of the arguments by Counsel.

17 THE COURT: All right.

18 MR. LOISEL: Well, Judge, and I think
19 Mr. Wingate is correct, you can't assume. I
20 think Mr. Wingate is correct when he says you
21 can't assume he discussed it with other people,
22 however, I think what the Court is planning on
23 doing in adding an additional instruction will

1 remedy whatever -- if there is any taint. If
2 they discuss it, they discuss it. When it is
3 time for them to discuss this case, you're going
4 to indicate to them that they can only consider
5 the law as given to them by the Court. I don't
6 know what else they can do. So I want to make
7 that point to the record.

8 MR. WINGATE: Your Honor, I don't think
9 there's anything that would -- that there would
10 be anything wrong with at least inquiring of this
11 juror whether or not he discussed -- prior to
12 submitting that question discuss the matter with
13 any other panel members.

14 MR. LOISEL: Judge, I don't think that
15 there's a necessity for that, for what it's
16 worth.

17 MR. WINGATE: I think the State would
18 agree there is a necessity for a fair trial for
19 Mr. Robert Wilson.

20 MR. LOISEL: I would agree that.

21 THE COURT: Let's assume the worst.
22 Let's assume he comes in here and says, yeah, we
23 had discussion about spousal immunity. At that

1 point what would be your suggestion?

2 MR. WINGATE: Well, it depends on what
3 was discussed. If they have at this juncture
4 discussed a principle of law and, this jury is
5 going back in their mind indicating that, okay,
6 well, she must have known something or she
7 couldn't testify against him, maybe she was with
8 him. All of that is nothing but speculation,
9 Your Honor, and that taints that juror panel. I
10 mean, it prevents him from getting a fair and
11 impartial juror. If it comes to that point, I
12 think we would perhaps have to consider more
13 drastic means such as a mistrial, and I know the
14 Court may not want it, but I think the law would
15 dictate that that would occur. We cannot have
16 jurors with pre-dispositions as to what the law
17 is in a case, and this is clearly been indicated
18 by the question submitted by Mr. Montague, Juror
19 Number 2, and this was well before the completion
20 of the evidence in this case and certainly well
21 before this Court is going to give any
22 instructions.

23 MR. LOISEL: Judge, as the Court is

1 well aware, everyone comes into this process with
2 preconceived notions. You instruct them to the
3 law, you tell them that this is the law you are
4 allowed to consider. Any -- I mean, I don't know
5 how you want to frame it in the additional
6 instruction you're going to give them, but
7 there's no taint that has been attained due to
8 the fact that this juror wrote a question down.
9 You're going to make an instruction, I would like
10 to obviously know what that instruction may be.
11 But I believe that remedies any and all problems
12 that Mr. Wingate is referring to.

13 MR. WINGATE: Mike, what you're missing
14 is, and we won't belabor the point, we'll finish
15 it up. What you're missing is when the Court
16 asked them to set aside any preconceived notion
17 of the law, that's the law applicable to the
18 case. What you have is a juror expressing a
19 principle of law that will not be instructed
20 upon, has nothing whatsoever to do with this
21 case, hasn't even been brought up. It is what he
22 says. He says I know that a wife can't testify
23 against her husband. That's what he said. And

1 he's talking about the principle of spousal
2 privilege, which has not come up from the State,
3 Defense, or the Court, and this is what he's
4 talking about.

5 MR. LOISEL: So, anyone in that room
6 that knows the wife can't testify against the
7 husband, so, therefore, none of them talk about
8 it? You know, it is an issue. It's been out
9 there. It is the pink elephant inside of the
10 room. They all know it, and just because he says
11 it, he's not talking about a principle of law.
12 He's talking about a wife testifying against a
13 husband.

14 MR. WINGATE: That's the principle,
15 Mike.

16 MR. LOISEL: Well, it is a principle of
17 law when you want to talk about Ohio Revised Code
18 2945.42. He just knows as many people do that
19 spouses can't testify against each other. Does
20 that mean that he's tainted the entire jury
21 because of his knowledge? Everyone probably has
22 that knowledge. So, I disagree with you in that
23 respect.

1 THE COURT: All right. Give me a few
2 minutes and see if I can draft an instruction
3 that we can all live with.

4 (RECESS TAKEN.)

5 THE COURT: All right. Let's go back
6 on the record. I did craft a handwritten
7 instruction that I believe addresses the two
8 different notes that we've received during the
9 course of this trial. Shared copies of the
10 proposed oral instruction that I'm going to be
11 giving them verbatim of what I've written out
12 here and we'll have that marked as Court's
13 Exhibit Number 3 as well. Are there any
14 objections?

15 MR. WINGATE: Your Honor, from
16 Defendant's standpoint, the only objection that I
17 have is on behalf of Mr. Wilson's request that
18 the language in the second paragraph would
19 include the following words: "I am instructing
20 you that Ohio law provides that the jury must be
21 advised by the Court of all of the law that is or
22 may be necessary for its deliberation."

23 THE COURT: That agreeable?

1 MR. LOISEL: That's fine, Judge. No
2 objection.

3 THE COURT: I can do that.

4 MR. WINGATE: All right.

5 THE COURT: All right. Let's go do
6 it.

7 MR. LOISEL: Judge, I don't know. I
8 think the one other issue, and I think that this
9 instruction probably takes care of it, but I just
10 want to make sure it is clear for the record, and
11 I don't know if we need to, as much as I hate to
12 even suggest it, talk to Juror Number 12. She --
13 it appears, we had Court's Exhibit 2 that has
14 been previously marked of ripped up notes that
15 she had prepared at home. With that in mind, it
16 appears that she probably has been considering
17 this evidence, whatever evidence she has received
18 up to this point without the other 11 jurors, and
19 I know that's part of the instruction that the
20 Court has given you, that you are not to consider
21 this case unless -- well, I don't know if you've
22 given that specific instruction, but I know when
23 they retire to deliberate, you tell them they

1 cannot consider this unless all 12 are present,
2 you know, if two go to lunch and 10 go somewhere
3 else, you have to all be together. I don't know
4 if you want to inquire from her or just go
5 forward with this curative instruction that we've
6 just talked about.

7 THE COURT: I believe that my
8 instructions to all of the jurors are -- is that
9 they are not to form nor express an opinion until
10 the case is finally submitted to them and I
11 don't -- and I would think the nature of these
12 questions in and of themselves speak to the
13 matter that she has not yet formed an opinion
14 because she's still seeking further information.

15 MR. LOISEL: Very well. Just wanted to
16 make sure we're all clear.

17 MR. MCELROY: So has the -- or had the
18 Court reviewed those questions itself?

19 THE COURT: I had not.

20 MR. LOISEL: And for the record, I
21 would submit that the State of Ohio did not, and
22 it is my understanding that the Defense did not
23 review those questions either.

1 MR. MCELROY: That is correct.

2 THE COURT: All right. Okay. Let's
3 go do it.

4 (WHEREUPON THE PRECEDING DISCUSSION
5 OUTSIDE THE PRESENCE OF THE JURY CONCLUDED AND
6 THE FOLLOWING PROCEEDINGS WERE HELD.)

7 THE COURT: Please be seated. Good
8 morning, ladies and gentlemen of the jury.
9 Before we get started, I do have a special
10 instruction that I need to read at this time.
11 The Court is somewhat concerned about two
12 developments in this case. The Court did receive
13 a note from a juror who asked about an
14 evidentiary matter as it relates to a principle
15 of Ohio law. The Court also received a number of
16 questions from a juror that he or she would like
17 to have asked in open court. I am instructing
18 you that Ohio law provides that the jury must be
19 advised by the Court of all the law that is or
20 may be necessary for its deliberations. There
21 may be other law that is applicable to the
22 pretrial and trial proceedings, but which may not
23 be introduced to the jury because it would relate

1 to matters of privilege, irrelevance, or
2 extraneous matters that for a number of reasons
3 cannot go to the jury.

4 I'm also instructing to you that when I
5 mentioned you would later be allowed to present
6 written questions, I should have further stated
7 that those questions would be questions that
8 arose during the course of your deliberations.
9 All of the evidence that could legally be
10 presented to you has been introduced into the
11 case. Again, I must advise you that you are
12 required to follow the instructions that are
13 given to you by the Court.

14 At this time you will be hearing the
15 final arguments of Counsel. This is an
16 opportunity for the attorneys to comment upon the
17 evidence that has been received in the case.
18 They will be putting their spin on it, putting it
19 into some sort of package that they believe you
20 can use in your deliberations in arriving at your
21 verdict.

22 I, again, remind you that statements of
23 Counsel are not evidence. Since the State does

1 have the burden of proof in this case, the
2 State's attorney will address you first, and he
3 will also address you last. Mr. Loisel.

4 MR. LOISEL: Thank you, Judge. Good
5 morning, everyone. As I'm sure Mr. Wingate
6 appreciates, and we appreciate your patience.
7 What do we know in this case? It's quite simple.
8 Brenda Navarre told on Robert Wilson. She
9 snitched on him. So, what did he do? He killed
10 her. It is as simple as that and keep in mind,
11 he didn't just kill her, he made an example of
12 Brenda Navarre. You snitch on me, this is what
13 happens to you. You cooperate with the police,
14 get me in trouble, this is how you end up.
15 Didn't strangle her, didn't shoot her. He
16 dropped 110 pound rock on her head. Why do you
17 think he did that? You heard from Alfonzo Davis
18 why he did it. Had to do what he had to do. You
19 don't do that to Robert Wilson and get away with
20 it, you die. Brenda Navarre learned that the
21 hard way. Much will be made as to what Janet
22 Wilson did or did not do in this case.

23 So, I ask you for a moment, let's

1 consider other information that we know in this
2 case, direct evidence that was told to you from
3 the witness stand. I'm going to go through all
4 of this, but let's just consider for a moment
5 this little synopsis. Detective Seymour was
6 using Brenda Navarre as a confidential informant,
7 as a snitch, no question about that.

8 Detective Seymour watched Brenda Navarre make
9 three buys from that man in the middle part of
10 1993. She was a snitch. She was corroborating
11 with police. He got in trouble as a result of
12 that cooperation.

13 Detective Seymour told you about a
14 frantic phone call that he received days before
15 the rock was dropped on Brenda Navarre's head by
16 the Defendant. The Judge is going to instruct
17 you on inferences, logical inferences that you
18 can make with respect to the evidence. Well, I
19 submit to you why would Brenda Navarre call a
20 Toledo Police detective, and I want to make sure
21 I get this testimony right, she appeared to be
22 frantic and crying and two days later, two or
23 three days later she ends up dead at the hands of

1 Robert Wilson. Why else would she have been
2 calling? The gig was up. She knew that Robert
3 knew, that's why she was calling. She was scared
4 to death. Detective Seymour told you that.

5 What else do we know? Direct evidence,
6 December 1st, 1993, Brenda Navarre is found on a
7 sidewalk dying with blood rushing from her head
8 from a serious injury. Giant rock laying next to
9 her on the sidewalk.

10 What else do we know? December 1st,
11 1993, Janet Wilson just so happens to pick up
12 Robert Wilson at his sister's house that very
13 night and he had two bags with him. Is that a
14 coincidence? No coincidence. You know why she
15 picked him up that night. The evidence is clear
16 as to why she picked him up that night with two
17 bags.

18 December 2nd, 1993, Brenda Navarre died.
19 What did the coroner tell you? Blunt force
20 trauma to her head here and here. And is it
21 consistent with a rock being dropped on you?
22 Yes. She told you about the hinge fracture
23 through the entire shelf of her face. She told

1 your about the depressed skull fracture
2 consistent with a 100 pound rock being dropped on
3 your head.

4 Finally, what other direct evidence do we
5 have? Alfonzo Davis, don't we, the Defendant's
6 stepson. He kind of laughed when you said
7 stepfather, Yeah, I guess so. You heard his
8 testimony. This guy right here is not his
9 favorite guy, doesn't hate him but he's just not
10 the right guy for his mom. No bias. What reason
11 would he have to lie about what Robert Wilson
12 told him back in 1995 or so? Doesn't have a
13 reason to lie. He told you about the
14 conversation that he had with that man, and it is
15 not as though he talked to him out of the blue.
16 It is not although he said, Hey, Alfonzo, come
17 here, I need to tell you something. Alfonzo told
18 you that he and his brother was involved in
19 something where his brother was a snitch. Oh,
20 that rang some bells with this man, didn't it?
21 When he heard snitch, he said, Well, let me tell
22 you about snitches, you got to do what you got to
23 do. What's that? Alfonzo asks him. You kill

1 snitch bitches. Well, how did you do it?

2 Dropped a brick on her head.

3 Again, is that just a mere coincidence
4 that he's talking about this, about what he did
5 to Brenda Navarre and that's exactly how it
6 happened, or is that the admission? I submit to
7 you that's exactly what happened. He admitted to
8 Alfonzo Davis that night.

9 Mr. Wingate is going to talk to you
10 about, well, aren't you sure or are you not sure
11 if you heard that from your mother about the
12 brick being dropped on his head. He said, Well,
13 maybe she told me, I don't know. But remember my
14 question to him: What did Robert say to you.
15 Dropped a brick on her head.

16 There's no question that he told him the
17 other two parts of that conversation, is there?
18 He did what he had to do. He had to kill the
19 snitch bitch.

20 Now, obviously there was a lot more
21 testimony in this case, but I submit to you,
22 ladies and gentlemen, with just the evidence that
23 I just talked about, you have more than enough

1 proof beyond a reasonable doubt to convict that
2 man of murder, but it is not that simple, is it?
3 There are other things that need to be discussed.
4 Even when you look at the other things that need
5 to be discussed, everything somehow points back
6 to him.

7 I know defense attorneys like to say no
8 matter how many times you point at my client, he
9 is not guilty. You know what? You are the sole
10 judges of that. Where does everything point?
11 Does it point off into space? Does it point to
12 some third party? No. Amazingly it all points
13 back to him.

14 Now, just as what I'm telling you the
15 evidence has shown, Mr. Wingate will talk to you
16 about what he feels the evidence has shown. And
17 I can tell you what he's going to talk about.
18 He's going to talk about, well, Janet Wilson
19 isn't telling the truth. She lied on Robert.
20 That's what this is all about. Alfonzo Davis,
21 he's not telling the truth either. He's lying on
22 Robert. Toledo Police, it is their fault. Their
23 initial investigation, they should have found

1 somebody and found that person, it is their
2 fault. They didn't do an adequate job.

3 Ladies and gentlemen, I submit to you
4 that he's going to try to make you believe that
5 this is some elaborate scheme by Janet Wilson to
6 frame Robert Wilson. He may not say it in those
7 terms, but think about it, that's what he wants
8 you to think. That's what he wants you to
9 believe.

10 Is it feasible that Janet Wilson for
11 \$5,000 dollars after 15 years wanted to frame her
12 husband, that she waited 10 to 12 years and
13 that's when she decided, huh, okay, now it's
14 time. I'm going to start this whole process in
15 motion. I'm going to talk to detective --
16 Sergeant Vasquez, Sergeant Forrester, and Bart
17 Beavers, and we're going to get this all started
18 now, because, yeah, I've had enough of this. I
19 want my \$5,000 dollars. I'm going to frame my
20 husband. Or does it make sense that what she's
21 telling you is true. All the evidence tells you
22 that what she says is true and we'll get back to
23 that.

1 Defendant's Exhibit A, the letter she
2 wrote to Robert Wilson while he was incarcerated.
3 He's going to waive it in front I don't have of
4 you and waive this letter and say it proves my
5 client's innocence. She says in that letter that
6 I lied to the grand jury. Janet Wilson, and as I
7 said, don't worry, we'll certainly get back to
8 that, but just remember when that letter
9 originated. Keep that in mind when he's saying
10 you must believe what's in this letter because it
11 exonerates my client.

12 The only problem that Mr. Wingate faces
13 is that it ignores the evidence that we just
14 talked about, the fact that Brenda Navarre was a
15 snitch, the fact that she snitched on Robert
16 Wilson, the fact that Robert Wilson told his
17 stepson, I killed the snitch bitch by dropping a
18 brick on her head. It ignores all of that. He's
19 going to want you to focus on Janet Wilson's
20 letter and all these mystery suspects that the
21 Toledo Police had on these suspects in 1993.
22 Why? Because that pulls your focus away from the
23 direct evidence that we just talked about. It

1 pulls your focus away from the fact that the
2 evidence dictates that Robert Wilson murdered
3 Brenda Navarre. And, again, don't take my word
4 for all this.

5 Let's at this point go through what we
6 heard. These are my notes from each and every
7 witness. And I've explained it, and I don't want
8 to be redundant, but it is important that you
9 consider what each and every witness had to say.
10 That's why you're here. Remember back in voir
11 dire we talked about you are the judges of
12 credibility with respect to what you hear from
13 the witness stand? You had an opportunity to
14 look at each and every witness, their demeanor,
15 how that sat in that witness chair, how they
16 talked to you, how clear they were with their
17 voice, their inflection, their ability to tell
18 you the truth. Keep that in mind.

19 Detective Bill Seymour, three direct buys
20 between the deceased, Brenda Navarre, and the
21 Defendant back in 1993 May, June, and I believe
22 August. Pretty compelling when you think about
23 it, especially as I said when you think about it

1 in conjunction with what the Defendant told
2 Alfonzo Davis, I had to do what I had to do.
3 What's that? Kill the snitch bitch. There's no
4 question Brenda Navarre was the snitch bitch Bill
5 Seymour told you. It is not as though that
6 mysteriously came forward. That is a fact that
7 can't be changed. She snitched for the TPD and
8 the fact that Alfonzo told you what the Defendant
9 said, He killed the snitch bitch. And it is not
10 as though Brenda Navarre died from, as I said,
11 strangulation, maybe a gunshot wound, being hit
12 by a car. It just so happens that she died in
13 the exact manner that Robert Wilson said she did
14 back in 1995 to Alfonzo Davis. She had a brick
15 dropped on her head, and you'll have a chance to
16 look at the pictures. It is much more than a
17 brick, ladies and gentlemen, it is a boulder over
18 a hundred pounds.

19 What else did Detective Seymour tell you?
20 As I said, days before Brenda was killed, frantic
21 phone call, she was crying. You can make logical
22 inferences. Days later she ends up dead. Why
23 would she call Detective Seymour if it weren't

1 for something to do about the case against
2 Robert Wilson? It doesn't make sense. Of course
3 she called him with respect to Robert Wilson.
4 Somehow he had found out that she was a snitch
5 and he took care of it.

6 You'll also hear an instruction with
7 respect to what Detective Seymour told you. It
8 is called other acts evidence, and I believe the
9 Judge has already instructed you after
10 testifying, you can't consider that with respect
11 to the guilt or innocence of this man, but you
12 can consider it for motive. That's exactly what
13 it is. His motive to kill Brenda Navarre stemmed
14 from when he learned that she snitched on him.
15 And, finally, one other thing that's important
16 with respect to Detective Seymour. What did he
17 say? Mr. Wingate asked him about the
18 confidential informants, Do you typically like to
19 have them, and pardon me if I don't say the quote
20 exactly, but he asked him about a question about
21 Do you like to have confidential informants
22 testify in court. No. We like to try to keep
23 their identity hidden. Huh, okay. Remember his

1 answer to me when I said, Well, why? What did he
2 say? Police try not to use confidential
3 informants at trial to protect their identity.
4 Why? To protect their life. Being a
5 confidential informant is dangerous, and
6 Brenda Navarre found that out the hard way.
7 Robert Wilson made sure of it.

8 You have two scene witnesses, Odett Scott
9 and Roger Craig. What does Roger Craig tell you?
10 Not much. He tells you he came upon a scene and
11 there was a dying or dead white female, petite on
12 the sidewalk with a giant rock next to her head,
13 blood on the sidewalk. Confirms what happened
14 that night.

15 Odett Scott you could barely hear what
16 she had to say, but what is important from her
17 testimony? Remember what she said about the
18 voices that she heard, black male arguing with a
19 white female, Robert Wilson is a black male,
20 Brenda Navarre was a white female. You may not
21 think that's important, but she was there. She
22 was there that night just before Brenda Navarre
23 was killed and heard an argument between a black

1 male and a white female. Granted, she didn't see
2 who did this, but you saw I kept trying to ask
3 her, Are you sure you didn't see. What did you
4 see when you looked over there. What did you
5 see. She wouldn't say. She just said a black
6 male and a white female arguing. So, I'm not
7 trying to tell you that she identifies
8 Robert Wilson, but it eliminates everyone else
9 but black males.

10 Officer Malone, Sergeant Niemiec. Again,
11 two responding officers. What do they do? They
12 set the scene. They tell you that they responded
13 to Paxton and E Street which here in Toledo,
14 Lucas County, Ohio. Remember when we talked
15 about elements? I said, you know, the State of
16 Ohio have to prove A, B, and C. That's one of
17 the elements, that this took place here in Lucas
18 County, Ohio, on or about December 1st through
19 December 3rd of 1993? Remember my question: Did
20 you respond to Paxton and E Street on or about
21 December 1st, 1993. Officer Malone said Yes.
22 Officer Niemiec -- Sergeant Niemiec now said yes.

23 Those are two very important elements,

1 venue -- well, just one, venue. Here in Toledo,
2 Lucas County, Ohio and, I'm sorry -- two -- date,
3 time frame, December 1st through December 3rd,
4 1993.

5 They didn't see who was there. I'm not
6 pretending to say they have any idea who did
7 this, but that's where they responded to find
8 Brenda Navarre laying in this puddle of blood
9 with a rock next to her, dying. You heard their
10 testimony that they got her out of there as fast
11 as possible to try to get her medical attention.

12 One of them recalls, I believe it was
13 Sergeant Niemiec, Do you know what happened to
14 her? Yeah, she died. No question about that, is
15 there?

16 I've talked about a lot about Alfonzo
17 already, but next in line Alfonzo Davis. As I
18 said, he was candid, he said he loves his mom, is
19 that a bias? That's for you to decide. Is his
20 love for his mother so strong that he came in
21 here and lied to you ladies and gentlemen? Did
22 you get that from his testimony? Did you feel
23 that from the way he was talking to you? No.

1 You could see he didn't really want to be here in
2 the first place. Not a pleasant thing to testify
3 against Robert Wilson. He was very reluctant to
4 even tell about the conversation he had with
5 Robert Wilson. Do you remember having a
6 conversation with Robert Wilson around back about
7 1995. Kind of. Not really. Something about
8 snitches. Well, if I showed you this statement
9 that you made to police back in 2006, would it
10 refresh your recollection? I suppose. I showed
11 it to him. Does that refresh your recollection,
12 Mr. Davis. Yes. What did you and Mr. Wilson
13 talk about. He said he had to do what he had to
14 do. Mr. Davis, what do you mean by that. Do you
15 know what he meant. That he had to kill the
16 snitch bitch. If you know, Mr. Davis, how did he
17 do that. Again, dropped a brick on her head.
18 You heard him. You saw him. He's telling you
19 the truth, ladies and gentlemen, he has no reason
20 not to tell you the truth.

21 MR. WINGATE: And I will object.

22 THE COURT: Sustained.

23 MR. LOISEL: You judge his credibility.

1 Remember what I said. You saw him testify. Did
2 it appear that he was telling you anything but
3 the truth?

4 MR. WINGATE: Again, I will object.

5 THE COURT: Issue of truth is for
6 the -- and the credibility is to the preface of
7 the jury. Sustained.

8 MR. LOISEL: Also one other thing you
9 need to consider is he told this to the police
10 years ago. Information didn't come forward until
11 19 -- or 2006 when the police after having an
12 opportunity to talk to him said, Hey, let's get
13 together and we'll have a conversation. So, what
14 did they do? They got together. Alfonzo Davis
15 told him what -- told them what he told you. Was
16 he offered any money? Did he get 50 crisp \$100
17 dollar bills? No. He just told you what
18 Robert Wilson told him.

19 That brings us to the thick file
20 Brenda Navarre -- I'm sorry -- Janet Wilson. As
21 I said, of all nights in all the years that she
22 was with this man, she remembers picking him up
23 on December 1st of 1993 at his sister's house

1 with two bags. And as I mentioned before, is
2 that some cosmic coincidence that on the night
3 Brenda Navarre was brutally murdered,
4 Janet Wilson, the Defendant's wife, goes and
5 picks him up? A couple of bags. They ultimately
6 end up at Alfonzo Davis's house, spend the night.
7 Why is that memorable? Because it had never
8 happened before. I submit to you that the
9 evidence suggests that the Defendant didn't want
10 to go home that night. He was hiding out. Where
11 did he go? Alfonzo Davis's house. The one time
12 in his life he spent the night just so happens to
13 be on December 1st, 1993.

14 There's no getting around the fact that
15 she wrote a letter to Robert Wilson in 2006,
16 indicating that she lied to the grand jury, but
17 she told you why she did this. She was scared.
18 She didn't know what was going to happen, but you
19 heard her say that letter was not truthful. You
20 heard her talk to Attorney Wingate, that letter
21 is a lie. Attorney Wingate and myself both went
22 through the letter and the affidavit, some of it
23 is true, some of it is not.

1 When she met with him years ago, she told
2 Defense Attorney that that letter was a lie. She
3 told you, ladies and gentlemen, that that letter
4 was not truthful. Sure, certain parts of it were
5 based in truth, but the gist of the letter was
6 not true, the gist that she lied to the grand
7 jury to set up her husband. I'll admit, she
8 said, Yeah, I was having some tough times, bar,
9 financial situation, yeah, I needed money. Who
10 of us -- strike that.

11 Who doesn't need money? She was honest.
12 She told you, Yeah, I needed money. Does that
13 mean she lied about it? She also was very
14 candid. She told you, yeah, I was charged. I
15 wasn't going to cooperate. The State of Ohio
16 charged me with obstructing justice. Charge gets
17 dropped if she cooperates.

18 Attorney Wingate is going to say, well,
19 of course she's going to cooperate if not she's
20 going to go to prison. She doesn't want to go to
21 jail because of this man. Before you heard
22 Attorney Wingate say one, two, three, four, five
23 years is the penalty for obstructing justice.

1 She doesn't want to do that. Hasn't the
2 Defendant put her through enough already? Of
3 course she's going to cooperate. She doesn't
4 want to get a felony for this man.

5 And finally, she admitted that that
6 affidavit was, again, partially true, partially
7 false, but you got to consider this: Who
8 prepared this affidavit? Robert Wilson's
9 attorney prepared it. Robert Wilson's attorney,
10 his job is to defend his client. So, what does
11 he do? He knows that his client got a letter
12 from Janet Wilson saying that she lied to the
13 grand jury. What does his attorney do? Like any
14 good attorney, prepares an affidavit that says,
15 Janet, sign this if it is true, because if this
16 is true, Robert Wilson couldn't have done what
17 you say he did. Notice the signature line. It
18 is blank. Janet Wilson wouldn't sign it. You
19 heard her say why not, because it is not true.
20 Attorney Wingate attempted to have her sign that
21 on two separate occasions she testified to.

22 MR. WINGATE: I will object. She said
23 once at the rehab.

1 MR. LOISEL: He prepared the affidavit
2 at his office, showed it to her, wouldn't sign
3 it, and then at the rehab center she wouldn't
4 sign it, two times.

5 MR. WINGATE: Objection.

6 THE COURT: Jury will have to rely on
7 its collective memory.

8 MR. LOISEL: Again, you have to judge
9 her truthfulness, her candor on the stand. Did
10 she appear honest to you? What were her
11 responses? Did they seem rehearsed, or did they
12 seem candid?

13 Finally she said something that was very
14 compelling. Why after 10 years did you go talk
15 to Sergeant Forrester? She had to get it off her
16 chest. She couldn't live with it any longer.
17 She was down at Toledo Police, saw an unsolved
18 murder board. It obviously evoked very emotional
19 memories. She had to talk to someone.

20 And finally, yeah, she got \$5,000
21 dollars, as I said, but what did
22 Detective Beavers tell you with respect to Crime
23 Stopper money? It is not as though road

1 policeman can go out and say, huh, let's offer
2 this person \$5,000 dollars to see if we can get
3 them to say what we want them to say, see if they
4 adopt a story we like so then we can arrest
5 someone. No, it is not like that. It has to go
6 in front of a board and be approved before you
7 can even offer it to somebody. And when do you
8 get Crime Stopper money? When it leads to an
9 arrest of the suspect. That's exactly what
10 happened in this case.

11 You heard from Detective Vasquez, he told
12 you that he had talked to Janet Wilson back in
13 2005. He had talked to her on a number of
14 occasions by phone at the bar, in person when her
15 grandson was robbed. He talked to him -- I'm
16 sorry, he talked to Janet Wilson at that point.
17 Did she ever talk to you about the murder of
18 Brenda Navarre. Yeah, many occasions. Did she
19 ever give you an official statement. Yep, June
20 of 2005. Approximately how many times did you
21 talk to her? He couldn't even give me a number.
22 But remember what he said at the end of his
23 testimony? Every time he talked to

1 Brenda Navarre -- strike that, I apologize.

2 -- Janet Wilson about the murder of
3 Brenda Navarre, her story was consistent. It
4 never changed. Now Attorney Wingate will tell
5 you her story changed, he's got the letter. Keep
6 in mind, we'll talk about that again, when that
7 letter was written.

8 Dr. Barnett had to show us some very
9 tough pictures to look at, but as I already told
10 you, what's the importance of her testimony? A,
11 Brenda Navarre died. Manner of death was
12 homicide, blunt force injury to the head. But
13 the most compelling part of her testimony is she
14 explained to you all the injuries, talked about
15 the fractures. Is it consistent with a rock
16 being dropped on your head? Yes. Look at that
17 in totality of the circumstances. Look at that
18 in conjunction with all of the other information
19 that's been pointed out to you, all of the other
20 evidence that you are to consider. Makes sense,
21 she died by a rock being dropped on her head by
22 this man.

23 Finally, we have Detective Beavers

1 testify. Yes, there was evidence destroyed in
2 this particular case. The rock is gone, clothes,
3 any physical evidence that may be at the scene
4 has been gone -- has been destroyed. You've
5 heard from Detective Beavers that
6 Detective Culpert still thought this was a
7 felonious assault case.

8 MR. WINGATE: We'll object. That was
9 testified to and objected to and was sustained.

10 THE COURT: I'm going to have the jury
11 rely on its collective memory on that point.

12 MR. LOISEL: Regardless, it was
13 destroyed. And my question to Detective Beavers
14 was, wouldn't you like to have that evidence
15 still. Of course he would. Why? Because you
16 can still get trace evidence. Maybe you can get
17 DNA off her clothes, off the rock, or off
18 something from the scene. But you know what?
19 They don't have it. It is unfortunate. Would he
20 like to have it? Sure. Would the State of Ohio
21 like to have it? Yes. I'm sure the Defense
22 would like to have it, too, because that physical
23 evidence could have given us something, maybe

1 something to exonerate the Defendant, but also
2 something more, to prove his guilt.

3 I submit to you, you already have enough,
4 more than enough that proves beyond a reasonable
5 doubt that he's guilty of this crime.

6 So, yes, Detective Beavers does admit
7 that that evidence was destroyed. DNA. Yes,
8 even though DNA was not even really used in 1993,
9 they still collected evidence from her anus, from
10 her vagina, from her blood for comparison
11 purposes back then -- strike that.

12 It was used for other things than DNA but
13 now today, 2008, you can compare those things.
14 And what do they do? They compared that DNA
15 taken from her vagina to that of Robert Wilson.
16 You can look at State's Exhibit, I believe 24 and
17 25, yeah, the DNA from her vagina does not match
18 Robert Wilson's DNA. Has absolutely no
19 evidentiary value. The only thing I tell you is
20 that Robert Wilson's DNA wasn't in her vagina.
21 That's what it tells you. So the DNA matters
22 not.

23 There was testimony about the tip --

1 tips, importance of them. This Detective did not
2 receive the tips. He could not gauge their
3 importance. He also told you that he had a
4 chance to talk to Janet Wilson on a number of
5 occasions and her statement to him was consistent
6 time and time again.

7 A thorough investigate was done in 1993.
8 He told you and no viable suspects were
9 developed. Sure, he's willing to admit, and the
10 State of Ohio versus submits to you, yes, that a
11 number of tips were given back in 1993, six,
12 seven, eight different names, but I submit to
13 you, ladies and gentlemen, that the Toledo Police
14 Department did their job back in 1993. They
15 investigated those tips to the best of their
16 ability and no one surfaced as a legitimate
17 suspect. Therefore, what happens? The case goes
18 cold. When did the case revive? Janet Wilson
19 came forward. Detective Beavers even told you
20 Robert Wilson's name was not even considered back
21 in 1993. It was not listed in any of those tips,
22 was it. Detective Beavers, No. Doesn't it make
23 sense that they didn't charge anyone back in 1993

1 with this crime because they didn't have the
2 information about the real killer back in 1993?
3 When did they get that evidence? In 2003 when
4 Janet Wilson came forward. His name never came
5 to light until 2003. That's when the evidence
6 surfaced. That's when the case was reopened,
7 that's when you develop the true suspect,
8 Robert Wilson. And don't, again, take my word
9 for it. Take that in consideration with the drug
10 investigation, the statements that Alfonzo made,
11 Janet Wilson's continuing statement in
12 implicating Robert Wilson. The Toledo Police
13 finally got the evidence that they needed and
14 charged the real killer. Ideally would it have
15 been nice to have that information from
16 Janet Wilson back in 1993? Of course it would
17 have been. It would have been great. Wouldn't
18 have had to deal with this case for the next 15
19 years. But they didn't, so they didn't charge
20 anybody until they got the evidence, and that's
21 what policemen do. That's what detectives do.
22 They put cases together when they get a
23 sufficient amount of evidence and they charge

1 someone. Unfortunately in this case it didn't
2 happen for 15 years, but it happened. You ladies
3 and gentlemen have the evidence, and, as I said,
4 it all points right there.

5 One last thing before I finish up.
6 Defense Counsel is going to talk to you. I'm
7 assuming he's going to talk to you about
8 Janet Wilson. I've talked to you a lot about
9 Janet Wilson. She's an important witness in this
10 case, but I want you to keep in mind, as I said,
11 he's going to wave the letter that she wrote to
12 Robert Wilson around. He may read from the
13 letter. I don't know what he's going to do from
14 the letter, but you can read the letter. It's
15 been made part of evidence for your
16 consideration. When you go back and deliberate,
17 you can look at that letter. What does the
18 letter say? Janet Wilson says to Robert in this
19 letter that I lied to the grand jury, I'm having
20 crazy feelings and thoughts. Defense Attorney
21 Wingate says, well, you have to believe this
22 letter. That's true. Well, if that's the case
23 and you can only believe the -- why can you only

1 believe part of the letter? He's going to say
2 she's truthful here when she writes the letter.
3 What about all the other information that
4 Janet Wilson is given, why can't that be true?
5 The reason that all the other stuff can't be true
6 is because it points right at Robert Wilson.

7 So, I don't want you to believe the stuff
8 that points at Robert Wilson, but I want you to
9 believe the stuff that doesn't point at
10 Robert Wilson. You can't have it both ways.
11 You've got to consider it in its entirety, why
12 she wrote the letter. She told you she was
13 scared. Like I said, I'll get back to that.

14 Finally, ladies and gentlemen, as I said,
15 the State of Ohio has to prove beyond a
16 reasonable doubt each and every element of
17 murder. We talked about it in opening. Remember
18 I said A, B, C. If we don't prove A or B or one
19 of the three, then you got to find not guilty,
20 but if you find that the State has proven all of
21 these elements beyond a reasonable doubt, it is
22 your duty to find the Defendant guilty. What are
23 the elements? That Robert Wilson on or between

1 December 1st and December 3rd, 1993, here in
2 Lucas County, Ohio, purposely caused the death of
3 another. Four things. The Judge is going to
4 give you definitions with respect to what
5 purposely means and causation. But let's just
6 look at it in layman's terms. Robert Wilson
7 caused the death, purposely caused the death of
8 another. Ladies and gentlemen, I submit to you
9 that when you pick up a hundred pound rock and
10 drop it on someone's head, you're purposely
11 trying to cause their death. There is no other
12 explanation as to why you would drop a hundred
13 pound rock on someone's head. On or between
14 December 1st to December 3rd, 1993, there is no
15 question that that is when this took place. The
16 Toledo Police told you that's when they
17 responded. Deputy Coroner Scala-Barnett.

18 Told you that's when she conducted the
19 autopsy on December 3rd. She told you that
20 Janet -- or Brenda Navarre passed on December
21 2nd. No question here in Lucas County, Ohio. As
22 I said before, Paxton and E Street. Everyone
23 testified that that is here in Toledo Ohio, Lucas

1 County, Ohio.

2 So, that leaves us with Robert Wilson.
3 I've just spent the last 45 minutes or whatever
4 it may have been telling you the evidence points
5 directly at Robert Wilson. It points at no one
6 else. But, wait, wait, wait. What about the
7 tips? What about all these other names? They
8 were investigated, and nothing came of them.
9 Everything in this case points to Robert Wilson
10 and that he on or between December 1st and
11 December 3rd, 1993, here in Lucas County, Ohio
12 purposely caused the death of Brenda Navarre.
13 The State of Ohio has proven that beyond a
14 reasonable doubt and it is your duty to find the
15 Defendant guilty.

16 THE COURT: All right. We'll take a
17 15 minute recess before you commence with further
18 final arguments here. Again, do not discuss this
19 case among yourselves. Do not allow anyone to
20 discuss this case in your presence. Neither form
21 nor express an opinion about the case until the
22 case is finally submitted to you. We'll recess
23 for 15 minutes.

1 (RECESS TAKEN.)

2 MR. WINGATE: Judge could we approach
3 before you bring the jury out?

4 (WHEREUPON THE FOLLOWING DISCUSSION WAS
5 HELD OUTSIDE THE PRESENCE OF THE JURY AT THE
6 BENCH.)

7 MR. MCELROY: Judge, with reference to
8 the affidavit or statement that is Mrs. Wilson's
9 statement that Ronnie wrote and was not admitted
10 yesterday.

11 THE COURT: Uh-huh.

12 MR. MCELROY: That was --

13 MR. LOISEL: That is Defendant's
14 Exhibit B.

15 MR. MCELROY: Correct, Defendant's
16 Exhibit B.

17 THE COURT: Right.

18 MR. MCELROY: It was mentioned several
19 times during closing. Again, it was acknowledged
20 by the State that she testified it is both true
21 and some of it is false.

22 THE COURT: Uh-huh.

23 MR. MCELROY: It is the Defendant's

1 position it is not being offered to prove the
2 truth of any of the statements in it. It's being
3 supplied just to show that they were saved. And
4 to give the jury some sort of reference about a
5 reference point to make sense of the testimony
6 she gave about, well, some of this is true and
7 some of this is false, therefore, it would be
8 outside of any hearsay and should be admitted.

9 MR. LOISEL: Judge, I think the Court
10 has made its ruling, but I'll leave it -- I would
11 ask you just to refer to your right, but I'll
12 leave it up to the Court at this point.

13 THE COURT: If I remember correctly, I
14 ruled that you can read anything, make full
15 reference to it, but since it was a hearsay
16 document it was not to go to the jury. I better
17 reaffirm that at this point, but you can
18 certainly --

19 MR. MCELROY: But on the basis that it
20 is offered for the truth --

21 THE COURT: On the basis that it is
22 hearsay.

23 MR. MCELROY: Okay.

1 THE COURT: Bring in the jury.

2 (WHEREUPON THE PRECEDING DISCUSSION AT
3 THE BENCH CONCLUDED AND THE FOLLOWING PROCEEDINGS
4 WERE HELD.)

5 THE COURT: Ready to proceed.

6 MR. WINGATE: Good morning, ladies and
7 gentlemen. I know you're getting tired of
8 hearing us speak, and, of course, this is our
9 last opportunity. When I say us, me
10 specifically, this will be the last opportunity
11 that I will have to address you. To all intents
12 and purposes, when I sit down, nothing else I
13 will have to say.

14 Now, in voir dire the Prosecutor talked
15 about 50 objections from Mr. Wingate and maybe 10
16 from the State, and I know I may have exceeded my
17 quota, but you know, again, as I told you in voir
18 dire, I'm an advocate. It is my responsibility
19 when I feel that the rules and regulations by
20 which we must abide have been violated, I object.
21 I apologize on my behalf. Hold it against me,
22 fine, but just don't do it to Mr. Wilson in this
23 case, and I don't believe that you will.

1 Now, I want to start out by telling you
2 that one of the cornerstones of our criminal
3 justice system upon which it is built is the
4 principle that every individual charged with a
5 crime is presumed innocent. That's first.

6 Another cornerstone is that in order to
7 remove this presumption of innocence, you, the
8 jury, the triers of fact, must be convinced
9 beyond a reasonable doubt as to each and every
10 element of the charge against that individual.

11 Now, these two principles are
12 interrelated and they are the pillars upon which
13 your verdict must be based. I want you to keep
14 that in mind. I'll also say to you that it is
15 unfortunate that we are here today. It was
16 tragic what occurred in 1993, December the 1st.
17 It was tragic what happened to Brenda Navarre.
18 Now, my sympathy will go out to her family, and I
19 will say to you --

20 MR. LOISEL: Objection, Your Honor.

21 THE COURT: What basis?

22 MR. LOISEL: Attorney Wingate's
23 sympathy has nothing to do with the facts in this

1 case.

2 THE COURT: The jury will be
3 instructed that sympathy, they are not to
4 consider sympathy as a prejudice.

5 MR. WINGATE: However, this Court will
6 tell you that you and your decision cannot be
7 based upon sympathy, bias, or prejudice. The
8 Prosecutor has a habit of anticipating what I
9 will or will not say, but I'm going to tell you
10 now. This case is not about me. It is not about
11 me. It is about the State of Ohio meeting its
12 burden of proof. So, don't let the Prosecutor
13 sort of sway you to start looking at about what
14 Mr. Wingate said, Mr. Mr. Wingate didn't say.
15 Proof beyond a reasonable doubt, that's what he
16 has to do. That's where that burden is. It will
17 never shift to me. It is not about me.

18 In voir dire the Prosecutor told you we
19 don't pick and choose our witnesses, and he's
20 right about that. He also told you that memories
21 fade with the passage of time and, again, he's
22 right. But despite these shortcomings that the
23 Prosecutor brought to your attention at the first

1 opportunity that he had to speak to you, I don't
2 want you to be fooled, because it doesn't matter
3 if memories are fresh. It doesn't matter if
4 memories are faded. It doesn't matter if the
5 witnesses are the pick of the litter, Saint
6 Benda -- sister, not a saint -- Sister Benda, the
7 juror that left. It doesn't matter who, it
8 doesn't matter the burden, the standard in this
9 case is that the State must convince you beyond a
10 reasonable doubt in order to remove Mr. Wilson's
11 presumption of innocence. That burden is the
12 same despite the nature of the witnesses, good or
13 bad; memories, good or bad. It is the same.
14 Now, this is it is standard and that is the level
15 of proof that you said you would have the State
16 of Ohio meet.

17 Now, you are allowed to take notes during
18 this trial. You saw and you heard the witnesses,
19 and I would like at this time to review with you
20 what I think the evidence has shown in this case
21 and what the State of Ohio has presented.

22 Now, as I told you in voir dire, there is
23 no physical evidence which indicate that

1 Mr. Wilson had anything to do with the death of
2 Brenda Navarre. There is no trace evidence,
3 there is no fiber evidence, there is nothing.
4 Detective Culpert, Chad Culpert, collected the
5 evidence and later signed the paperwork to have
6 it destroyed.

7 Now, the Prosecutor wants you to believe
8 that it was a mistake. It may have been, but the
9 fact that paperwork says felonious assault and
10 you're standing at an autopsy of an individual
11 watching it being performed, taking pictures and
12 are given the evidence at the close of the
13 autopsy, would clearly indicate that it is no
14 longer a felonious assault. So, now the evidence
15 is destroyed.

16 Detective Beavers, as the Prosecutor told
17 you, said we would love to have physical evidence
18 with the advances in technology, body fluids,
19 trace evidence, fibers, it would be a great help,
20 and that's what the lead investigator said. And
21 I will say to you, but physical evidence doesn't
22 always incriminate because, yes, anticipating
23 correctly, we would have loved to have had it,

1 too. Because just like it could incriminate, it
2 can exonerate, but we don't have that, so we're
3 disadvantaged, but, again, what do we have? The
4 presumption of innocence because we don't have to
5 prove our innocence to you, keep that in mind.

6 Now, as far as any test being conducted
7 on the evidence, don't know what it would reveal
8 without physical evidence. Now, keep this in
9 mind, without any physical evidence, the State
10 sought to give you a motive as to why it believes
11 Robert Wilson perpetrated this crime. It goes
12 back, and I'm only going to touch upon the
13 witnesses that I consider percipient in this
14 case.

15 Let's go back to Detective Seymour. He
16 testified three drug sales involving
17 Robert Wilson and Brenda Navarre as the
18 confidential informant occurring in June and
19 August of 1993, but you heard Detective Seymour
20 also testify to the fact that Brenda Navarre was
21 involved in five to ten drug cases with him. He
22 said he became involved with the Vice Drug Unit
23 in 1991, and Brenda Navarre had been a

1 confidential informant a couple of years prior to
2 that. He couldn't tell you if she was, in fact,
3 working with other detectives. Couldn't tell you
4 what other cases she may have been involved in,
5 but he did say this: He said being a
6 confidential informant is a very dangerous
7 business.

8 Now, motive for Robert Wilson. Motive
9 for anyone that would have sold drugs to
10 Brenda Navarre during this time frame, or at any
11 time frame. Why? Because it is a very dangerous
12 business.

13 And just like the Prosecutor can say to
14 you that, well, heard a black voice, heard a
15 white voice, so we know that it was a black male.
16 Then I guess any drug dealer doing a sale could
17 also be included as a suspect. But, again, this
18 is for your thought because, again, the burden is
19 here. It has to be beyond a reasonable doubt.

20 Detective Seymour, he testified that
21 Brenda Navarre called him near the end of
22 November of 1993 and she was frantic and crying.
23 Wasn't put in the report. The significance of

1 this is he said it was passed on by word of mouth
2 and, again, common sense and reason, which you
3 didn't leave when you came into this jury room --
4 or into this courtroom would indicate that if
5 Detective Seymour in November of 1993 passed it
6 on by word of mouth that Brenda Navarre had
7 concerns for her safety because of Robert Wilson,
8 then in 1993, we have a suspect, but you don't
9 have that. You don't have that.

10 Detective Beavers told you, and this is
11 what you have to listen to, it is all in
12 phraseology. The State wants to put it one way.
13 Detective Beavers told you that from the witness
14 stand over here from 1993 until 2004 -- now, keep
15 that in mind, 2004. 2003 is when Janet surfaced
16 or came forward. But from 1993 until 2004 there
17 was only one Crime Stopper report that mentioned
18 the name of Robert Wilson and what did he tell
19 you about the report? He says that report was
20 inconsistent with the facts of this case. No
21 credibility was given to it. That's what he
22 testified to. This is the detective. This is
23 the detective.

So, now, Detective Beavers testified from 1993 -- again, now keep in mind until 2003 when Janet Wilson surfaced, he had reviewed Crime Stopper reports, some rated, because there are ratings on those, some rated as high as five on a scale of one to ten as to the helpfulness of the information.

The reports wherein there were names of certain individuals that had been reported numerous times as a suspect, multiple occasions that same name resurfaced as being involved with the homicide of Brenda Navarre. Not Robert Wilson. Not his name. And he couldn't tell you why they weren't followed up on.

At this point, the State tells you they were followed up on. You don't know that. That has never been proven to you. No one has come in here and said these high rated Crime Stopper reports mentioning one individual on more than one occasion was ever followed up on. This detective here told you I don't know. I don't know, so --

MR. LOISEL: Objection, Your Honor.

1 He's misstating the evidence.

2 THE COURT: Jury will have to recall
3 that from its collective memory.

4 MR. WINGATE: Detective Beavers, and I
5 do know, testified that there were police reports
6 from eyewitnesses. Eyewitnesses which he
7 reviewed when he got involved in this case, which
8 describe the person assaulting the woman as 6'1,
9 6'2. Now, he tried to qualify it and tell you
10 oh, yeah, we got a report that it was somebody
11 less than that, but that was when Janet came
12 forward. So when you excise Janet, the reports
13 that they're getting from eyewitnesses says 6'1
14 to 6'2 tall.

15 He told you there was a report stating
16 that a witness recognized the voice of the
17 assailant, the voice of the perpetrator, and she
18 gave a name to that voice. Wasn't Robert Wilson.
19 Did you hear this detective tell you that that
20 was followed up on? Was there DNA evidence taken
21 from that evidence to compare with that of
22 Brenda Navarre? It wasn't done. It wasn't done.
23 The significance, because the Prosecutor has sat

1 here and told you DNA, that's not important.
2 That's not important. If it wasn't important --
3 if it was not important, you have DNA from 1993
4 to 2006. You then go out and take a blood sample
5 from Mr. Robert Wilson and you test it. Why?
6 Because the significance is if I can tie him into
7 it, we can put him at the scene, we know that he
8 had some contact with her. That's the
9 significance of it. But since it didn't show
10 that, the relevance of the DNA is insignificant.
11 It is insignificant. All right. Insignificant
12 for him. Very important for us, because it shows
13 that Mr. Wilson had had no contact with her.
14 Again, DNA, physical evidence, nothing to show
15 that Mr. Wilson was involved in this incident.
16 More importantly -- this is what I think
17 is very important because Detective Beavers
18 testified from that witness stand, and he told
19 you from 1993 until 2003 when Janet talked to her
20 police friends, he had reviewed Crime Stopper
21 reports. Now, keep this in mind, he had reviewed
22 Crime Stopper reports. I don't want you to talk
23 about 2003. I'll just maybe take it up to 2002.

1 From 1993 until 2002, he had reviewed Crime
2 Stopper reports indicating that the girl,
3 Brenda Navarre, was murdered because she was
4 snitching. Detective Beavers under oath told you
5 the reports he reviewed said that she was
6 snitching and the individual, not Robert Wilson
7 named in the report, dropped a brick or rock on
8 her head.

9 Now, it wasn't Robert Wilson. What's the
10 significance of that? The word in the street
11 from 1993 until 2003 was that Brenda Navarre had
12 been murdered because she was snitching and a
13 brick or a rock had been dropped on her head.

14 This is the word out in the community. I
15 stopped at 2002 because that next year that's
16 when Janet came forward and Janet testified. She
17 came forward because she couldn't live with it
18 any longer and Mike Loisel asked her, With what.
19 And she said Knowledge of a murder.

20 Now, in 2003, Janet told you that she
21 can't live with it anymore. The burden has
22 become too heavy to bear. Now, did she cooperate
23 with the police? She said I heard, and I'm going

1 to use this statement, Prosecutor -- and of
2 course it's already -- it is not true, but keep
3 this in mind: "I use some of the information I
4 heard in the streets and made up some details to
5 convince Lou" -- that's Vasquez -- "I was telling
6 the truth."

7 Didn't sign it but when asked on the
8 witness stand, Did you tell me that. Yes, I did.
9 So, my statement that -- notes that I took and
10 memorialized in a typewritten statement, she can
11 go through it and say some is true, some is
12 false, some is true, some is false. The entire
13 statement is not truly false, nor is it
14 completely true.

15 But, ladies and gentlemen, she can
16 vacillate and manipulate facts from the witness
17 stand. How do you know she's telling the truth?
18 And we're going to get to what she actually said
19 because that's significant, too, but how do you
20 know if anything she said was the truth?

21 As it relates to that -- and I'm going to
22 back up. As it relates to that statement, did
23 she cooperate with the police when this burden

1 had become so great that she couldn't bear it?
2 This is what she said. I had heard about the
3 murder of Brenda Navarre on the streets, I made
4 up some things so that the police would believe
5 me.

6 All right. If that's not true, let's go
7 on the assumption that that's just a lie. Okay?
8 Let's just talk about the burden being so great
9 that she couldn't bear it. Was there an
10 opportunity in 2003 to go before the grand jury?
11 Yes. In 2003 did she go to the grand jury? No.

12 MR. LOISEL: Objection, Your Honor.
13 Assumes facts not in evidence.

14 THE COURT: It's in evidence.

15 MR. WINGATE: That's right.

16 THE COURT: Overruled.

17 MR. LOISEL: Judge, there is no
18 evidence as to whether or not she did or did not
19 go to the grand jury in 2003.

20 THE COURT: I believe -- my
21 recollection --

22 MR. WINGATE: Yes.

23 THE COURT: It is in the record, so

1 it is overruled.

2 MR. WINGATE: Was there an opportunity
3 to go before the grand jury in 2003? Yes. Did
4 she go? No. What did she say? No. I played up
5 the fear factor with the police, telling them I
6 was afraid. I played up the fear factor with the
7 police, telling them I was afraid. The
8 Prosecutor stood here and told you, Oh, you see
9 this she wrote that letter because she was
10 afraid. What did she tell you? It couldn't have
11 been because of Robert Wilson, because she told
12 you from his arrest on this offense up until
13 August the 11th of 2008, she had been going over
14 to the jail every week to visit him. That's what
15 she said. But the Prosecutor wants you to
16 believe that Oh, she's afraid. Of what? I
17 played up the fear factor with the police,
18 telling them I was afraid.

19 Did she go in 2004 to relieve herself of
20 this heavy burden because the weight was so
21 great? Did she go to give any time -- any type
22 of comfort to a hurting mother? No. In 2005,
23 did she go? No. Because what the Prosecutor

1 wants you to believe, she came forward because
2 the burden is so great, 2003. Yet, in 2004,
3 2005, nothing. 2006 with a financially stressed
4 failing business, Brewski's, and the promise of
5 50 crisp \$100 dollar bills, Janet Wilson appeared
6 before the grand jury. I couldn't live with it
7 anymore. Look at the letter she wrote, and I'm
8 not going to wave it in front of you. All I'm
9 going to say is look at the letter she wrote.
10 You'll have it in evidence. November 13th, 2006.
11 Read it. She calls it a lie. Look at it.
12 Crissy, the woman that's mentioned in the letter.
13 Prosecutor asked the question, Did she exist?
14 Yeah, she exists. Was Robert involved with her,
15 Prosecutor's question; her answer, yes. Read the
16 letter.

17 This woman who couldn't live with it
18 anymore. In 2007 was arrested at her job after
19 leaving this court because she refused to testify
20 and cooperate with the State of Ohio. She was
21 charged with a felony of the third degree up to
22 five years in prison, but she wants you to
23 believe I'm here today. I came forward in '03

1 because I couldn't live with it anymore. Guess
2 what? If you testify, we'll dismiss the charges
3 against you. You can keep the \$5,000 dollars
4 that you probably already spent, so she
5 testified. She testified before you because she
6 couldn't live with it anymore.

7 Now, this is what is crucial. Let's look
8 at what she had to say. That's very crucial.
9 You all said that I will decide this case based
10 upon the evidence adduced from that witness
11 stand. And I remind you of this only because
12 what Janet Wilson testified to from that witness
13 stand did not beyond a reasonable doubt establish
14 that Robert Wilson did anything. Look at your
15 notes.

16 Now, this is what's important. It wasn't
17 what she didn't say, because common sense and
18 reason is going to tell you that you all focused
19 on, well, I'm concerned about what didn't she
20 say. What does she know? Was she pre-seasoned
21 saying stuff that she knew? What did she see?
22 What did Robert tell her? These may be questions
23 in your mind, but, ladies and gentlemen, although

1 the State of Ohio may want you to utilize
2 speculation, innuendo, hypothesis, assumptions,
3 that's not the standard. It is proof beyond a
4 reasonable doubt. That is not within your
5 province. The evidence, if any, which convinces
6 you beyond a reasonable doubt must come from that
7 witness stand. You cannot supply the facts to
8 fill in the gaps, the void that's in the State's
9 case.

10 So, you may come to the conclusion that
11 Janet had more to say, and you may be right, or
12 you may be wrong, but it is not up to
13 speculation. It is what she said from that
14 witness stand. The Court will give you the
15 instructions that you have to follow, and that is
16 the law that is to be applied in this case, not
17 what you think, not what you feel. That is the
18 law. Not speculation. You cannot -- you cannot
19 fill in that void with your facts. You cannot
20 supply the Prosecutor's case with facts that will
21 be consistent with his theory. If he hadn't
22 given it to you, you cannot give it to him.
23 That's how our criminal justice system works.

1 You wouldn't want it to work that way for you,
2 and you cannot allow it to work that way against
3 Robert Wilson. It is proof beyond a reasonable
4 doubt.

5 So, what did Janet know, if anything?
6 You don't know. You must look at what she said
7 under oath from that witness stand, and none of
8 you are mind readers. So, what did she say? I
9 can take the truth and some false facts and I can
10 create a convincing statement. She said that.
11 Robert was indicted, but the Court will tell you
12 that indictment is nothing more than a piece of
13 paper which apprises him of the charge against
14 him. That's all that it is. His plea of not
15 guilty puts into issue each and every allegation
16 contained in that complaint, and that's where you
17 come in as the trier of facts, from that witness
18 stand evidence beyond a reasonable doubt.
19 Because if you're going to say, well, he was
20 indicted, so she must have said something good,
21 then that's no better than saying he's sitting
22 here between Mr. Neil McElroy and myself and he
23 must be guilty and you all said, no, I will give

1 him his presumption of innocence. This is what
2 we're talking about, have you been convinced
3 beyond a reasonable doubt.

4 The only other percipient witness in this
5 case is Mr. Alfonzo Davis and that's the son of
6 Janet Wilson, and he told you, and keep in mind
7 after the Prosecutor gave him a police report,
8 asked him to look at it to see if that refreshed
9 his recollection, he said, Oh, Robert told me
10 that um, he killed Brenda Navarre, he dropped a
11 rock -- a brick on her head. That's what he
12 said.

13 But, ladies and gentlemen, keep in mind
14 the word in the streets. But more importantly,
15 it wasn't the word in the street that he was
16 repeating, because when I took the paperwork and
17 pointed out at the bottom of his report that
18 Janet Wilson had told him that Robert had done
19 this. Janet had said this. Janet. And after
20 being shown that, Alfonzo told you, I don't know
21 who told me. It could have been my mom. It
22 could have been Robert. But, ladies and
23 gentlemen, you have to be convinced beyond a

1 reasonable doubt that it was Robert because
2 that's what the State wants you to believe, that
3 it was Robert. Have you been convinced beyond a
4 reasonable doubt? I was smoking a lot of
5 marijuana back then. I don't know when the
6 statement was made. Prosecutor wants to lock you
7 into 1995. I don't know when the statement was
8 made. I love my mom and Robert is okay as a
9 person, but I don't care for him being with my
10 mom. 1995. I don't know. I don't know.

11 If you can't trust the messenger, then
12 how can you trust the message? You're talking
13 proof beyond a reasonable doubt. The only given
14 in this trial that we've talked about from voir
15 dire until this point is Mr. Robert Wilson's
16 presumption of innocence. It remains with him
17 throughout this entire trial. It goes with him
18 back in that jury deliberation room and it cannot
19 be removed unless and until you have been
20 convinced beyond a reasonable doubt.

21 And what is proof beyond a reasonable
22 doubt? Proof beyond a reasonable doubt is proof
23 of such a nature that you, your ordinary person,

1 you would be willing to rely and act upon it in
2 the most important of your own affairs. Would
3 you rely and act upon Janet Wilson? Would you
4 rely and act upon Alfonzo Davis in the most
5 important -- the most important of your own
6 affairs?

7 So, now, no physical evidence. DNA not
8 there. Just the word of Janet Wilson to get an
9 indictment, and the State has given you even less
10 to try and convict this man.

11 Now, when I sit down and before I get
12 there, let me just say this because you all
13 talked about it in voir dire. Robert Wilson
14 didn't testify. Oh, we would have loved to hear
15 what he had to say. Didn't testify. The Court
16 told you and the Court will again tell you that
17 Robert has a constitutional right not to testify,
18 and if he chooses to exercise that right, you
19 cannot hold that against him in any form or
20 fashion. He doesn't have to prove his innocence
21 to you. Burden never shifts.

22 So, when I sit down, the Prosecutor is
23 going to tell you that Mr. Wingate said this,

1 Mr. Wingate said that, Mr. Wingate did this and
2 did that. And after he's sufficiently torn down
3 the things I've said to you, I want each and
4 every one of you to go back and say based upon
5 the evidence that you have presented in this
6 trial, Mr. Prosecutor, where is the evidence that
7 rises to the level of proof beyond a reasonable
8 doubt. Where is it? Now, and since I don't see
9 it, I can't fill in the gaps. My gut, intuition,
10 my gut instinct may tell me maybe he had
11 something to do with it. My woman's intuition, I
12 think he did it. Those are not the standards.
13 It is proof beyond a reasonable doubt.

14 Now, in voir dire, I asked each and every
15 one of you by name, are you the type of juror
16 that you would want seated on your case if you
17 were over there in the position of Mr. Wilson and
18 you all said that you were, and my final question
19 to you is this: Would you let this type of
20 evidence convict you? I think not. You may not
21 like it, but we all said that a verdict of not
22 guilty is just as consistent with justice as a
23 verdict of guilty.

1 The State has not met its burden of
2 proof. You may not like it, but it is your duty
3 and your responsibility to return a verdict of
4 not guilty. And on behalf of Mr. McElroy and on
5 behalf of Mr. Wilson, I thank you.

6 THE COURT: Mr. Loisel.

7 MR. LOISEL: Thank you, Judge.

8 Mr. Wingate is correct, this is my opportunity
9 not to tear down what he just told you, but this
10 is my opportunity to respond to what he just told
11 you. And I think the most important thing that
12 you must remember, and it is what he began his
13 argument with, this case is not about me, this
14 case is not about Ronnie Wingate, it is not about
15 this affidavit that I made. This case is about
16 the evidence, whether the State of Ohio proved
17 this evidence beyond a reasonable doubt is
18 absolutely correct. This case is not about
19 Ron Wingate, it is not about Mike Loisel. The
20 case is about the evidence that you heard from
21 the stand. But what did he spend the majority of
22 his argument doing? He's telling you this case
23 is about Janet Wilson versus Robert Wilson. You

1 can't believe Janet Wilson versus Robert Wilson,
2 so, therefore, you cannot believe beyond a
3 reasonable doubt the evidence. Well, ladies and
4 gentlemen, that's not the case. The case is the
5 State of Ohio versus Robert Wilson. You heard
6 the evidence. It's not one person versus
7 Robert Wilson, it's the totality of the
8 circumstances. Look at all of the evidence.

9 Would I like Janet Wilson to come here
10 and tell you A, B, C, D, E, F, G? Of course I
11 would, and like all of that to point directly to
12 Robert Wilson. She didn't do that. But the case
13 isn't solely about Janet Wilson, is it? You have
14 to remember, you've got Alfonzo Davis, you've got
15 Bill Seymour -- Detective Bill Seymour, you've
16 got Diane Barnett. I don't want to repeat what I
17 told you in my first close, but that is the
18 evidence you consider. You don't just consider
19 Janet Wilson versus Robert Wilson. You don't
20 just consider Alfonzo Davis versus Robert Wilson.
21 You consider all of the evidence. And all of the
22 evidence is convincing beyond a reasonable doubt
23 of this man's guilt, not because I'm telling you,

1 because the evidence tells you.

2 A couple of things I want to correct --
3 well, I want you to consider. Mr. Wingate
4 indicated that the State of Ohio said the DNA is
5 insignificant. No, the State of Ohio did not
6 indicate that the DNA was insignificant. It is
7 very insignificant.

8 The State of Ohio submits to you that it
9 has no evidentiary value. The only thing that
10 the DNA tells you is that Robert Wilson's DNA is
11 not -- was not in Brenda Navarre's vagina.
12 That's where the swab came from. So, that is the
13 only thing you can consider. That has nothing to
14 do with whether or not he dropped a rock on her
15 head.

16 Mr. Wingate made mention of motive. He
17 talked about Bill Seymour indicating that
18 Brenda Navarre worked for him on other cases
19 aside from the case where she snitched, where she
20 bought drugs from Robert Wilson, thus getting an
21 indictment on drug charges. There are other
22 people. Well, you know what? That very well may
23 be true that there are other people that she was

1 involved with, but you have to consider
2 everything within the evidence, consider it in
3 conjunction with all of the other evidence.
4 Brenda Navarre, her drug dealing days with the
5 Toledo Police is one thing to consider, but
6 consider that with the fact that the Defendant
7 told Alfonzo Davis he had to do what he had to
8 do. You can't just put these on separate
9 islands. You've got to think of everything
10 together. So, she snitched on him. She calls
11 Detective Seymour days before she's killed,
12 crying, hysterical.

13 The Defendant told Alfonzo Davis, yeah, I
14 don't know if it is 1995. Alfonzo Davis didn't
15 know whether it was 1995, but he was sure that
16 the Defendant told him, I did what I had to do.
17 I killed the snitch bitch.

18 So, put that all together with the fact
19 that who is the snitch bitch. Brenda Navarre.
20 Who got killed by a brick being dropped on her
21 head? Brenda Navarre. Who told Alfonzo Davis
22 that? The Defendant did. Now, Mr. Wingate says
23 remember I showed him his statement and he said,

1 Well, yeah, my mom told me that, too.

2 MR. WINGATE: Objection.

3 MR. LOISEL: I may have learned it from
4 my mother, the fact about the brick. Mr. Wingate
5 didn't ask him, well, what about the other two
6 parts of that statement, because that doesn't
7 support his contention that Janet Wilson told him
8 this stuff, because remember I showed him the
9 report? Does this refresh your recollection?
10 Yes. What did you -- what did the Defendant say
11 to you? I had to do what I had to do, kill the
12 snitch bitch, dropped a brick on her head.
13 That's the testimony that you received from
14 Alfonzo Davis. That is the testimony he said the
15 Defendant told him those three things.

16 Mr. Wingate then said, Well, what about
17 this part that says you learned that from your
18 mother? Well, I don't know if I learned that
19 from my mother. I may have, I may not have. It
20 doesn't matter. He talked to the Defendant and
21 the Defendant told him what he did.

22 I could respond to each and every thing
23 that the Defense Attorney said, but I want to

1 focus on just a couple of other things. Well, a
2 couple of things. I don't want to go into each
3 and every item because we would be here for an
4 hour and you would be tired of hearing me talk.
5 Maybe you already are.

6 Crime Stopper money, he wants to make a
7 big deal, Brewski's, financial trouble. Well, is
8 this, as I said in my first close, a scheme that
9 Janet Wilson concocted to extort money to get
10 money from the Toledo Police Department to frame
11 her husband? Do you think that's what she's
12 doing, ladies and gentlemen? Do you think that's
13 her motive, to frame him? Of course it is not.
14 Crime Stopper money is given for information that
15 leads to an arrest.

16 Well, Mr. Wingate wants you to believe
17 that she testified for the State of Ohio because
18 she got this money, therefore, yeah, of course
19 she's going to say what the State wants her to
20 say.

21 Well, think about it. What if they gave
22 them Crime Stopper money after they testified?
23 Then the argument is, well, they are withholding

1 that money until they testify in favor of the
2 State of Ohio. It doesn't work that way. It's
3 always before trial because it leads to the
4 arrest of a suspect. Can't change that. She's
5 not trying to frame her husband. She's telling
6 you what she knows.

7 We already talked about the unsigned
8 affidavit. Mr. Wingate mentioned it in his
9 close. Janet Wilson is capable of putting things
10 together to convince Toledo Police. But you know
11 what? She said that wasn't true. She refused to
12 sign that affidavit verifying its accuracy. You
13 can't put any stock in that affidavit. It was
14 prepared by the Defendant's attorney. Of course
15 it is going to be favorable for his client. Talk
16 about bias.

17 We look at the burden of proof. The
18 State of Ohio -- it is the State of Ohio's burden
19 to show you -- to prove to you beyond a
20 reasonable doubt each and every element of this
21 crime. We went over those. The only question in
22 this case is the identity. There's no question
23 Brenda Navarre was brutally murdered on December

1 1st of 1993 between the days of December 1st and
2 December 3rd. There's no question that this
3 happened in Ohio -- Toledo, Lucas County, Ohio.
4 I'm sorry.

5 The only question revolves around the
6 identity of Robert Wilson. If there were any
7 other viable suspects, don't you think Toledo
8 Police -- there were a number of detectives that
9 testified -- don't you think that Defense Counsel
10 would have asked those --

11 MR. WINGATE: I will object.

12 THE COURT: That's beyond the scope of
13 the evidence in this case.

14 MR. WINGATE: Your Honor, could we
15 approach for a second -- just for a second?

16 (WHEREUPON THE FOLLOWING DISCUSSION WAS
17 HELD AT THE BENCH.)

18 MR. WINGATE: Judge, in addition to
19 being outside of the scope of the evidence, it is
20 also shifting the burden over to the side of the
21 Defense and when he's asking, well, don't you
22 think Mr. Wingate would have. That's shifting
23 the burden and I think it is improper.

1 THE COURT: Objection is noted.

2 (WHEREUPON THE PRECEDING DISCUSSION AT
3 THE BENCH CONCLUDED AND THE FOLLOWING PROCEEDINGS
4 WERE HELD.)

5 MR. LOISEL: No matter how many times I
6 tell you we've proven this case beyond a
7 reasonable doubt, it is not up to me. It is up
8 to you. The evidence tells you so. When you
9 look at all of the evidence together that the
10 State of Ohio presented to you, it points to no
11 one else but Robert Wilson. It doesn't point, as
12 I said, over there or over there. It points to
13 Robert Wilson and no one else.

14 As we said, Toledo Police, they did their
15 due diligence. They investigated back in 1993.
16 There were other people that were mentioned in
17 these tips, yes. You can't hide behind that
18 fact. You can't say oh, no, no, no, that didn't
19 happen. It happened. That's how police
20 investigations work. They get information, they
21 work the case. No viable suspect until
22 Janet Wilson came forward.

23 And finally, with respect to beyond a

1 reasonable doubt, the Defense Attorney only gives
2 you part of that definition when he says you must
3 rely upon it in the most important of your own
4 affairs. Listen to the entire definition that
5 the Judge gives you. That is your sworn duty to
6 listen to those definitions and apply them to the
7 facts in this case. And when you listen to that
8 whole definition, you'll have no doubt in your
9 mind that the Defendant is guilty.

10 The last thing I'm going to talk to you
11 about, as I said I would, is the letter. Because
12 although Mr. Wingate says it is not about the
13 State of Ohio versus Ronnie Wingate, he wants you
14 to believe that this case is all about
15 Janet Wilson and, yes, she is important, but it
16 is not, as I said, Janet Wilson versus Robert
17 Wilson. It is the State of Ohio and all of the
18 evidence, including Janet Wilson versus
19 Robert Wilson.

20 Think about this letter. You'll have a
21 chance to read it. This is the one time her
22 story changed from 2003 to September 3rd of 2008
23 when she testified when she talked to you about

1 what she knew about the murder of Brenda Navarre.
2 She told you the truth. She admitted that she
3 lied. Does that mean you can't believe anything
4 else she says? Yeah, I lied. What if she got up
5 on that stand and vehemently denied lying? You
6 have to judge her credibility for yourselves, and
7 I submit to you what did she tell you? What does
8 the evidence tell you? She told
9 Detective Forrester, Detective Ross,
10 Detective Beavers, Detective Vasquez time and
11 time again consistent information that led to the
12 arrest of the Defendant. She told you what she
13 did that night, December 1st, 1993. She went to
14 the Defendant's sister's house and picked him up.
15 Notice Defense Attorney didn't talk to you about
16 that, did he? Because that's very compelling
17 evidence. More importantly, consider when her
18 story changed. The only time it changed is when
19 she knew that the Defendant would find out.

20 MR. WINGATE: I will object.

21 THE COURT: This is argument.

22 MR. LOISEL: I submit to you that the
23 evidence suggests that the only time she changed

1 her story is when the Defendant found out that
2 Janet Wilson was the one that was cooperating
3 with police, that she was now the informant
4 against her husband. The evidence tells you that
5 the only time her story changed was when she
6 realized there was no turning back. She is now
7 in Brenda Navarre's shoes. We all know what
8 happened to Brenda Navarre. You all know what
9 happened when she snitched on Robert Wilson,
10 don't we?

11 Ladies and gentlemen, the evidence tells
12 you beyond a reasonable doubt that Robert Wilson
13 killed Brenda Navarre. You know it. The
14 evidence tells you. The only time Janet Wilson's
15 story ever changed is when she realized she was
16 now Brenda Navarre. And as I said, we know what
17 happened to Brenda Navarre. Find this man
18 guilty, ladies and gentlemen. Hold him to this
19 standard of proof beyond a reasonable doubt and
20 find him guilty of murdering Brenda Navarre.
21 Thank you.

22 THE COURT: All right. We're going to
23 recess for noon. Reconvene these proceedings at

1 1:15. For the last time, you are not to discuss
2 this case among yourselves, nor with anyone else.
3 Do not allow anyone to discuss this case in your
4 presence, neither form or express an opinion
5 about this case until the case is submitted to
6 you. We will be back here at 1:15 at which time
7 you will hear the charge and you will commence
8 with your deliberations. We'll be in recess.

9 (LUNCH RECESS TAKEN.)

10 THE COURT: Members of the jury, you
11 have heard the evidence and the arguments of
12 Counsel. It is now the responsibility of the
13 Court to advise you of the law that is to be
14 applicable to this case.

15 The Court and jury have separate
16 functions. You decide the disputed facts, and
17 the Court provides the instructions of law. It
18 is your sworn duty to accept these instructions
19 and to apply the law as is given to you by the
20 Court. You are not permitted to change the law,
21 nor to apply your own conception of what you
22 think the law is or should be. A criminal case
23 begins with the filing of an indictment. Let me

1 just make a parenthetical here. I will be giving
2 you a written copy of these instructions, so you
3 can take notes if you wish, but you will have a
4 copy of these instructions with you in the jury
5 room.

6 The criminal case begins with the filing
7 of an indictment. The indictment informs the
8 Defendant that he has been charged with an
9 offense. The fact that it was filed may not be
10 considered for any other purpose. The plea of
11 not guilty is a denial of the charge and puts in
12 issue all of the essential elements of each
13 offense charged.

14 Now, there's been a lot of discussion in
15 this case about burden of proof. The Defendant
16 is presumed innocent unless his guilt is
17 established beyond a reasonable doubt. The
18 Defendant must be acquitted unless the State
19 produces evidence which convinces you beyond a
20 reasonable doubt of every essential element of
21 the offense charged in the indictment.

22 What is reasonable doubt? Reasonable
23 doubt is defined by statute and is as follows:

1 Reasonable doubt is present when, after you have
2 carefully considered and compared all of the
3 evidence, you cannot say you are firmly convinced
4 of the truth of the charge. Reasonable doubt is
5 a doubt based on reason and common sense.

6 Reasonable doubt is not mere possible doubt,
7 because everything relating to human affairs or
8 depending on moral evidence is open to some
9 possible or imaginary doubt. Proof beyond a
10 reasonable doubt is proof of such character that
11 an ordinary person would be willing to rely and
12 act upon it in the most important of his or her
13 own affairs. Is evidence?

14 Evidence is all of the testimony received
15 from the witnesses, any exhibits admitted during
16 the trial, and any facts stipulated to by
17 Counsel.

18 Evidence may be of two kinds, either
19 direct or circumstantial, or both. Direct
20 evidence is the testimony given by a witness who
21 has seen or heard the facts to which he or she
22 testifies. It includes exhibits admitted into
23 evidence during the trial. Circumstantial

1 evidence is the proof of facts or circumstances
2 by direct evidence from which you may reasonably
3 infer other related or connected facts which
4 naturally and logically follow according to the
5 common experiences of mankind.

6 To infer, or to make an inference, is to
7 reach a reasonable conclusion or deduction of
8 fact which you may, but you are not required to
9 make, from other facts which you find have been
10 established by direct evidence. Whether an
11 inference is made rests entirely with you.
12 Direct evidence and circumstantial evidence are
13 of equal weight or probative value.

14 The evidence does not include the
15 indictment, opening statements, or closing
16 arguments of Counsel.

17 The opening statements and closing
18 arguments of Counsel are designed to assist you
19 and they are not evidence.

20 Statements or answers that were stricken
21 by the Court or which you were instructed to
22 disregard are not evidence, and must be treated
23 as though you never heard them. You must not

1 speculate as to why the Court sustained the
2 objection to any question that was not answered
3 or what the answer to such a question might have
4 been. You must not draw any inference or
5 speculate on the truth of any suggestion included
6 in a question that was not answered.

7 Now, the Court made certain rulings
8 regarding hearsay testimony and various
9 exceptions allowed by the law of evidence. The
10 Court did instruct you that the phone call made
11 by Brenda Navarre to Detective Seymour, wherein
12 he testified she appeared to be under stress,
13 could not be considered for the truth of that
14 matter. I believe I was in error in that ruling,
15 and you can give it such weight as you deem
16 appropriate.

17 You are the sole judges of the facts, the
18 credibility of the witnesses, and the weight of
19 the evidence. To weigh the evidence, you must
20 consider the credibility of the witnesses. To do
21 this, you will apply the tests of truthfulness
22 which you apply in your daily lives. These tests
23 include the appearance of each witness upon the

1 witness stand; his or her manner of testifying;
2 the reasonableness of the testimony; the
3 opportunity he or she had to see, hear and know
4 the things concerning which he or she testified;
5 his or her accuracy of memory; frankness or lack
6 of it; intelligence; interest and bias, if any;
7 together with all of the facts and circumstances
8 surrounding the testimony. Applying these tests,
9 you will assign to the testimony of each witness
10 such weight as you deem proper. You are not
11 required to believe the testimony of any witness
12 simply because he or she was under oath. You may
13 believe or disbelieve all or any part of the
14 testimony of any witness. It is your province to
15 determine what testimony is worthy of belief and
16 what testimony is not worthy of belief.

17 In this case, the Defendant did not
18 testify. It is not necessary that the Defendant
19 take the witness stand in his own defense. He
20 has a constitutional right not to testify, if
21 that is his decision. The fact that the
22 Defendant in this case did not testify must not
23 be considered for any purpose.

1 Generally a witness may not express an
2 opinion. However, one who follows a profession
3 or special line of work may express his or her
4 opinion because of his or her education,
5 knowledge and experience. Such testimony is
6 admitted for whatever assistance it may provide
7 to help you arrive at a just verdict.

8 However, as with other witnesses, upon
9 you alone rests the duty of what weight should be
10 given to the expert witness. In determining its
11 weight, you must take or you may take into
12 consideration her skill, experience, knowledge,
13 veracity, familiarity with the facts of the case,
14 and the usual rules for testing credibility and
15 determining the weight to be given to the
16 testimony.

17 Now, evidence was received in this case
18 about the commission of certain crimes or wrongs
19 or other acts other than the offense of which the
20 Defendant is charged in this trial. That
21 evidence was received only for a limited purpose.
22 It was not received, and you may not consider it,
23 to prove the character of the Defendant in order

1 to show that he acted in conformity or accordance
2 with that character.

3 If you find that the evidence of other
4 crimes, or wrongs, or acts is true and that the
5 Defendant committed them, you may consider that
6 evidence only for the purpose of deciding whether
7 it proves or provides proof on the issue of the
8 Defendant's motive to commit the offense charged
9 in the trial.

10 A number of exhibits and the testimony
11 relating to them have been introduced. You may
12 consider whether the exhibits are the same
13 objects and in the same condition as originally
14 taken by the police officers. And you will
15 determine what weight, if any, the exhibits
16 should receive in light of all of the evidence.

17 I will now discuss with you the issues in
18 this case. The Defendant is charged with a crime
19 of murder. Before you can find the Defendant
20 guilty of this charge, you must find beyond a
21 reasonable doubt that on or between the 1st day
22 of December, 1993 through the 3rd day of December
23 1993, in Lucas County, Ohio, the Defendant

1 purposely caused the death of another, to wit:
2 Brenda Navarre.

3 There are several elements to the offense
4 of murder, each of which must be proved beyond a
5 reasonable doubt before you can find the
6 Defendant guilty of this offense and they are as
7 follows:

8 It must be proved beyond a reasonable
9 doubt that the Defendant one, purposely; two,
10 caused another's death, to wit: Brenda Navarre;
11 three, on or between the 1st day of December,
12 1993 through the 3rd day of December, 1993; and,
13 four, in Lucas County, Ohio.

14 The Court will now define the terms used
15 in this charge, first with respect to purposely.
16 Purpose is an essential element of the offense of
17 murder. A person acts purposely when it is his
18 or her specific intention to cause a certain
19 result. It must be established in this case that
20 at the time in question there was present in the
21 mind of the Defendant a specific intention to
22 cause the death of Brenda Navarre.

23 Purpose is a decision of the mind to do

1 an act with a conscious objective of producing a
2 specific result. To do an act purposely is to do
3 it intentionally and not accidentally. Purpose
4 and intent mean the same thing. The purpose with
5 which a person does an act is known only to
6 himself or herself, unless he or she expresses it
7 to others or indicates it by his or her conduct.

8 The purpose with which a person does an
9 act is determined from the manner in which it is
10 done, the means or weapons used and all of the
11 other facts and circumstances in evidence.

12 Proof of motive is not required. The
13 presence or absence of motive is one of the
14 circumstances bearing upon purpose.

15 Two, causation. Cause is an essential
16 element of the offense of murder. Cause is an
17 act which directly produces the death of another
18 and without which it would not have occurred.

19 Three, time. That the offense charged
20 took place on or between the 1st day of December,
21 1993 through the 3rd day of December, 1993. It
22 is not necessary that the State prove that the
23 offense was committed on the exact day as charged

1 in the indictment. It is sufficient to prove
2 that the offense took place on a date reasonably
3 near the date claimed.

4 Lastly, four, venue. That the offense
5 charged took place in Lucas County, Ohio. The
6 right of this Court to try the Defendant depends
7 upon proof that the offense was committed in
8 Lucas County.

9 If you find that the State proved beyond
10 a reasonable doubt all of the essential elements
11 of the offense of murder, then your verdict must
12 be guilty.

13 If you find that the State failed to
14 prove beyond a reasonable doubt any one of the
15 essential elements of the offense of murder, then
16 your verdict must be not guilty.

17 You may not discuss or consider the
18 subject of punishment. Your duty is confined to
19 the determination of the guilt or innocence of
20 the Defendant. In the event you find the
21 Defendant guilty, then the duty to determine
22 proper punishment is placed, by law, upon the
23 Court.

1 You must not be influenced by any
2 consideration of sympathy or prejudice. It is
3 your duty to carefully weigh the evidence, to
4 decide all disputed questions of fact, to apply
5 the instructions of the Court to your findings,
6 and to render your verdict accordingly. In
7 fulfilling your duty, your efforts must be to
8 arrive at a just verdict. Consider all of the
9 evidence and make your findings with intelligence
10 and impartiality, and without bias, sympathy or
11 prejudice, so that the State of Ohio and the
12 Defendant will feel that their case was fairly
13 and impartially tried. If, during the course of
14 the trial, the Court has said or done anything
15 that you consider an indication of the Court's
16 view on the facts, you are instructed to
17 disregard it.

18 If during your deliberations you have a
19 question, the foreperson, and that is a person
20 that you will select, will put that question in
21 writing indicating specifically what is
22 requested. Such question will then be delivered
23 to the Bailiff who will deliver it to the Court

1 and the attorneys. After discussion, the answer
2 to that question will be placed on that note and
3 it will be returned to you.

4 Your initial conduct upon entering the
5 jury room is a matter of importance. It is not
6 wise to immediately express a determination to
7 insist upon a certain verdict because if your
8 sense of pride is aroused, you may later hesitate
9 to change your position, even though you later
10 decide that it is wrong.

11 Deliberate with the objective of reaching
12 an agreement, if you can do so without disturbing
13 your own individual judgment. Each of you must
14 decide this case for yourself, but you should do
15 so on after a discussion and consideration of the
16 case with your fellow jurors. Do not hesitate to
17 change an opinion if convinced that it is wrong,
18 however, you should not surrender honest
19 convictions in order to be congenial or to reach
20 a verdict solely because of the opinions of the
21 other jurors. After your verdict is announced
22 and made in open court, you may discuss this case
23 with anyone, but you are not required to do so.

1 Whether you decide to discuss this case
2 with Counsel or press or with anyone else after
3 you are discharged is a matter of your own free
4 choice. The Court will place in your possession
5 the exhibits and the verdict form.

6 The foreman or forelady, whomever you
7 select, will retain possession of these records
8 and also any notes that you may have sent out and
9 have returned to you, including the verdict and
10 return them to the courtroom. The foreperson
11 will see to it that your deliberations are
12 orderly and that each juror has the opportunity
13 to discuss the case and to cast his or her vote;
14 otherwise, the authority of the foreperson is the
15 same as that of any other juror. Until your
16 verdict is announced in open court, you should
17 not disclose to anyone else the status of your
18 deliberations or the nature of your verdict.

19 After you retire, you should select a
20 foreman or a forewoman and this person will then
21 preside over your deliberations. And whenever
22 all 12 -- I repeat, all 12 -- jurors agree upon
23 a verdict, you will then sign the verdict form in

1 ink and advise the Bailiff of your verdict by
2 knocking on the door. You will then be returned
3 to the courtroom at which time your verdict will
4 be read in open court.

5 Now, let me discuss the verdict form with
6 you. You will have this form with you in the
7 jury room. It does have a caption, State of Ohio
8 versus Robert Wilson. Case number CR-2006-3339.
9 And it states as follows: We, the jury,
10 empaneled in the above entitled action having
11 been sworn well and truly to try and true
12 deliverance to make between the State of Ohio and
13 the Defendant Robert Wilson, and having been
14 fully advised of the premises for verdict, find
15 and say that we find the Defendant, and there's a
16 line there with an asterisk and the foreperson,
17 whomever you select, will insert either the word
18 guilty or the words not guilty as to all -- to
19 the verdict of all 12 of you of murder, in
20 purposely causing the death of Brenda Navarre, in
21 violation of Revised Code Section 2903.02(A) and
22 2929.02 as charged in the indictment.

23 And then there's a place for 12

1 signatures. The foreperson will not insert the
2 words either either guilty or not guilty until
3 all 12 of you agree on what the verdict will be.
4 Once all 12 of you agree on what that verdict
5 will be, then you will each sign on one of the
6 lines that are provided, and there is a place for
7 12 signatures, and I will also ask that you print
8 your name after your signature so we can decipher
9 the signatures.

10 You will be allowed to take breaks. If
11 you need to take a break, a smoking break, that's
12 fine. I think you can step out in the hall.
13 Smoking areas are designated if you need to take
14 a smoking break.

15 I should caution you that you should not
16 be discussing the case except when all 12 jurors
17 are in the jury room together; otherwise, you
18 should not be discussing the case except when all
19 12 of you are together. The jury room is a
20 non-smoking area. If some of you wish to smoke,
21 you may separate to do so; however, you may not
22 discuss the case until all 12 jurors are present.
23 Thus if you separate briefly to smoke or if you

1 decide to take a break for dinner, you must not
2 discuss the case at that time, only in the jury
3 room. And you may do this without the permission
4 of the Court. Now, you basically run your own
5 show on that.

6 We do have the alternate, Ms. Meyer. You
7 had been very attentive throughout these
8 proceedings, and I want to express to you my deep
9 appreciation for your willingness to participate
10 as an alternate. In my case about a third of the
11 cases the alternate has to take the place on the
12 jury, but in this case it did not happen, so at
13 this time you will be released and you are free
14 to go. You are certainly welcome to stay in the
15 courtroom and watch these proceedings if you
16 wish, but you are not required to stay. I would
17 only ask that you not discuss this case with
18 anyone until the verdict is announced in open
19 court.

20 MS. MEYER: Okay.

21 THE COURT: See Counsel up here.

22 (WHEREUPON THE FOLLOWING DISCUSSION WAS
23 HELD AT THE BENCH.)

1 THE COURT: Other than objections we
2 already dealt with, any other objections?

3 MR. LOISEL: The only thing that
4 wasn't, and I didn't realize it before, is in
5 most instructions there's something that says
6 that the foreperson does not have any -- their
7 input isn't greater --

8 THE COURT: It is in there.

9 MR. LOISEL: I didn't hear it.

10 MR. WINGATE: He read it.

11 MR. LOISEL: Okay.

12 MR. MCELROY: It outlines the duties of
13 the foreperson and says other than those things,
14 it is the same as --

15 MR. LOISEL: That's the only thing I
16 had. Nothing else from the State.

17 THE COURT: Okay.

18 MR. WINGATE: For us we would like to
19 renew our motion to have that Exhibit B submitted
20 to the jury and renew our motion for directed
21 verdict, judgment of acquittal after all the
22 evidence --

23 MR. MCELROY: And seal the record.

1 THE COURT: Do you want B to go in or
2 not? It is double hearsay.

3 MR. WINGATE: We ask that it be marked
4 and made a part of the Court's record.

5 MR. MCELROY: Seal the file.

6 MR. WINGATE: The only other thing was
7 did the Court want the outstanding or held in
8 abeyance motion to have the complete copy of the
9 Prosecutor's file made and made a part of the
10 record.

11 THE COURT: How much trouble is that
12 going to be for you?

13 MR. LOISEL: Judge, I think, like I
14 said, we already submitted our response to that
15 motion, we would just ask that you deny it. I
16 mean, I don't know how much trouble putting it
17 together is. The question I just think for the
18 reasons set forth in the State's previous motion
19 that it is not entitled to have this file sealed.

20 MR. MCELROY: And I think, Judge, that
21 the argument isn't that trial counsel is entitled
22 to it. The argument is that the Defendant, in
23 order for him -- assuming that it may be an

1 appeal --

2 THE COURT: Let's do it this way: If
3 there is a verdict of guilty, I'll issue it at
4 that time.

5 MR. LOISEL: Very well.

6 THE COURT: At this time then the jury
7 will retire and commence with their
8 deliberations.

9 (JURY COMMENCED DELIBERATIONS AT 1:50 P.M. AND
10 RETURNED A VERDICT AT 7:46 P.M.)

11 THE COURT: Do we have a foreman or
12 forewoman?

13 MR. DROUILLARD: (Indicating.)

14 THE COURT: Mr. Foreman, have you
15 arrived at a verdict?

16 MR. DROUILLARD: Yes, we have.

17 THE COURT: Would you please hand the
18 verdict form to the Bailiff. The Bailiff will
19 publish the verdict. The Defendant will please
20 rise.

21 MS. JOHNSON: State of Ohio versus
22 Robert Wilson, case number 2006-3339. "We, the
23 jury, empaneled in the above entitled action,

1 having been sworn, well and truly to try and true
2 deliverance to make between the State of Ohio and
3 the Defendant Robert Wilson, and having been
4 fully advised of the premises for verdict find
5 and say that we find the Defendant guilty of
6 murder, causing the death of Brenda Navarre in
7 violation of RC 2903.02(A) and 2929.02 as charged
8 in the indictment." And signed by all 12 jurors.

9 THE COURT: Do either Counsel wish to
10 poll the jury?

11 MR. WINGATE: We would, Your Honor.

12 THE COURT: All right.

13 Adele Karwacki, is that your verdict?

14 MS. KARWACKI: Yes.

15 THE COURT: Is it John Paul
16 Valiquette? Is this your verdict?

17 MR. VALIQUETTE: Yes.

18 THE COURT: Mr. Joe Tomaselli, is this
19 your verdict?

20 MR. TOMASELLI: Yes.

21 THE COURT: Mr. Casey Drouillard, is
22 this your verdict?

23 MR. DROUILLARD: It is Drouillard.

1 THE COURT: Is this your verdict?

2 MR. DROUILLARD: Yes.

3 THE COURT: Ms. Abernathy, is this
4 your verdict?

5 MS. ABERNATHY: Yes.

6 THE COURT: Ms. Fults, is this your
7 verdict?

8 MS. FULTS: Yes.

9 THE COURT: Mr. Hiser, is this your
10 verdict?

11 MR. HISER: Yes.

12 THE COURT: Mr. Vasquez, is this your
13 verdict?

14 MR. VASQUEZ: Yes, sir.

15 THE COURT: Or Vasquez, this your
16 verdict? Ms. Zajac, is this your verdict?

17 MS. ZAJAC: Yes.

18 THE COURT: Mr. Kinnebrew, is this
19 your verdict?

20 MR. KINNEBREW: Yes.

21 THE COURT: Mr. Montague, is this your
22 verdict?

23 MR. MONTAGUE: Yes.

1 THE COURT: And Ms. Shumer, is this
2 your verdict?

3 MS. SHUMER: Yes, sir.

4 THE COURT: All right. The verdict is
5 signed by all 12 jurors, all 12 jurors
6 concurring. The Court accepts the verdict form,
7 orders it to be filed in the case.

8 Members of the jury, after you are
9 discharged, you may discuss your verdict and your
10 deliberations with others, but you are not
11 required to do so. You must decide for yourself
12 whether or not you will discuss such matters. In
13 any event, you should be careful of what you say.
14 You should make no statement verbal or in writing
15 unless you are sure that it is complete and
16 correct. You should make no statement that you
17 would not be willing to make under oath in the
18 presence of the Court, the other jurors,
19 litigants, and their respective counsel. If your
20 statements are to the press, remember that your
21 name and your statement may appear in print, in
22 which event you should be doubly cautious to be
23 sure that your statement is absolutely correct in

1 whole and in part because the press will only use
2 that part which the reporter considers
3 sufficiently newsworthy or challenging.

4 As jurors you have served as public
5 officers of this court. When you are discharged
6 and I leave the bench, your services are
7 completed and you have all the rights to privacy
8 of private citizens. It is the lawyers duty to
9 protect those rights and your desire not to talk
10 about the case, if that is your decision. It is
11 improper and unethical for a lawyer or anyone
12 else to harass, entice or exert improper
13 influence on you for the purpose of getting you
14 to talk about the case. If you retire to the
15 jury room for just one further moment, then I
16 will let you go.

17 (WHEREUPON THE FOLLOWING DISCUSSION WAS
18 HELD OUTSIDE THE PRESENCE OF THE JURY.)

19 THE COURT: I would propose to proceed
20 to sentencing in two weeks. Do you have the
21 time?

22 MS. JOHNSON: Yes.

23 THE COURT: I'll let you go ahead and

1 give us a time right now.

2 MS. JOHNSON: We could do it on the
3 19th.

4 THE COURT: 19th of September? What
5 time? 9:00 o'clock on the 17th?

6 MS. JOHNSON: 19th.

7 MR. WINGATE: Your Honor, I'm not
8 available on the 19th, however, Mr. Wilson is
9 aware of the fact that there's only one sentence
10 that this Court can impose upon him, which would
11 be 15 to life, and he would rather proceed to
12 sentencing at this point.

13 THE COURT: Well, I'm not prepared
14 really to sentence at this point. I understand
15 that if there is a PSI, I would like to review
16 that unless you're willing to proceed.

17 MR. LOISEL: Judge, as Mr. Wingate
18 indicated, as statute would indicate back in 1993
19 the punishment for this crime is 15 to life.
20 There is no -- this Court has no availability for
21 any other sentence. The State is willing to
22 proceed at this time if the Court is comfortable.
23 If the Court is not comfortable, we understand.

1 We would like to go forward at this time as well.

2 THE COURT: All right. If both sides
3 agree to sentencing at this time, I'm going to
4 take two minutes and then we'll proceed to
5 sentencing. I will be granting your motion for
6 the sealing of the record, so you will need to
7 have a record available under seal. And take two
8 minutes and then we'll proceed to sentencing.

9 MR. WINGATE: Judge, if we -- I'm not
10 available on the 19th. If the Court wishes to do
11 the following week I would be, however, the
12 question is would the Court have Mr. Wilson sent
13 back to the Toledo Correctional Institution? He
14 would rather go back and wait the time to be
15 brought back for sentencing.

16 THE COURT: All right.

17 MR. WINGATE: Then that's what we would
18 like to do.

19 THE COURT: We'll set time to three
20 weeks then.

21 MR. WINGATE: Then Mr. Wilson is ordered
22 returned to the Toledo Correctional Institute?

23 THE COURT: Correct.

1 MR. WINGATE: All right.

2 MR. LOISEL: What specific date; do we
3 know?

4 THE COURT: I'll have to get you the
5 date. I have to check my calendar as well. So
6 you can return the Defendant.

7 (WHEREUPON THE TRIAL OF THE CASE
8 CONCLUDED ON SEPTEMBER 5, 2008, AT 8:00 P.M.)

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C E R T I F I C A T E

I, THE UNDERSIGNED, HEREBY CERTIFY
THAT THE ABOVE AND FOREGOING IS A TRUE AND
COMPLETE TRANSCRIPT OF THE PROCEEDINGS HAD IN THE
TRIAL OF THE ABOVE-ENTITLED CAUSE.

Stacey L. McDevitt, RPR

Official Court

Reporter

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